

Uniform Regulation of Virtual-Currency Businesses Act (Provisions similar to N.C. law are highlighted)	North Carolina Law (Provisions similar to Uniform Act are highlighted)	Analysis of Substantive Differences
<p align="center"><b>[ARTICLE] 1</b> <b>GENERAL PROVISIONS</b></p> <p><b>SECTION 101. SHORT TITLE.</b></p> <p>This [act] may be cited as the Uniform Regulation of Virtual-Currency Businesses Act.</p>	<p align="center"><b>ARTICLE 16B</b> <b>MONEY TRANSMITTERS ACT.</b></p> <p><b>§ 53-208.41. Title.</b></p> <p>This act may be cited as the "North Carolina Money Transmitters Act."</p>	
<p><b>SECTION 102. DEFINITIONS.</b></p> <p>In this [act]:</p> <p>(1) <b>“Applicant”</b> means a person that applies for a license under this [act].</p> <p>(2) <b>“Bank”</b> means a federally-chartered or state-chartered depository institution or holder of a charter granted by the Office of the Comptroller of the Currency to a person engaged in the business of banking other than deposit-taking. The term does not include:</p> <p>(A) an industrial loan company, state-chartered trust company, or a limited- purpose trust company unless the department has authorized the company to engage in virtual-currency business activity; or</p> <p>(B) a trust company or limited-purpose trust company chartered by a state with which this state does not have a reciprocity agreement governing trust-company activities.</p> <p>(3) <b>“Control”</b> means:</p> <p>(A) when used in reference to a transaction or relationship involving virtual currency, power to execute unilaterally or prevent indefinitely a virtual-currency transaction; and</p> <p>(B) when used in reference to a person, the direct or indirect power to direct the management, operations, or policies of the person through legal or beneficial</p>	<p><b>§ 53-208.42. Definitions.</b></p> <p>For purposes of this Article, the following definitions apply:</p> <p>(1) <b>Applicant.</b> – A person filing an application for a license under this Article.</p> <p>(2) Authorized delegate. – An entity designated by the licensee under the provisions of this Article to engage in the business of money transmission on behalf of a licensee from a branch office in this State.</p> <p>(3) Branch office. – Any physical retail location within this State operated by the licensee or the licensee's authorized delegate at which the licensee engages in the business of money transmission. For the purposes of this Article, this includes automated kiosks.</p> <p>(4) Commissioner. – The Commissioner of Banks of the State of North Carolina.</p> <p>(5) <b>Control.</b> – The power, directly or indirectly, to direct the management or policy of the licensee or person subject to this Article, whether through ownership of securities, by contract, or otherwise. Any person that (i) is a director, general partner, or executive officer; (ii) directly or indirectly has ownership of or the power to vote ten percent (10%) or more of a class of outstanding voting securities; (iii) in the case of a limited liability company, is a managing member; or (iv) in the case of a partnership, has the right to receive upon dissolution, or has contributed, ten percent (10%) or more of the capital, is presumed to control the licensee or</p>	<p>The definition of “bank” in the Uniform Regulation of Virtual-Currency Businesses Act (“the Uniform Act”) is substantively comparable to the definition of “depository institution” under the North Carolina Money Transmitters Act (“the MTA”).</p> <p>The Uniform Act defines the term “control” in two contexts. First, in reference to a transaction, “control” means the “power to execute unilaterally or prevent indefinitely” a transaction. Second, in reference to a person, “control” means the “power to direct the</p>

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<p>ownership of voting power in the person or under a contract, arrangement, or understanding.</p> <p>(4) “Department” means the [name of state agency implementing this [act]].</p> <p>(5) “Exchange,” used as a verb, means to assume control of virtual currency from or on behalf of a resident, at least momentarily, to sell, trade, or convert:</p> <p>(A) virtual currency for legal tender, bank credit, or one or more forms of virtual currency; or</p> <p>(B) legal tender or bank credit for one or more forms of virtual currency.</p> <p>(6) “Executive officer” means an individual who is a director, officer, manager, managing member, partner, or trustee of a person that is not an individual.</p> <p>(7) “Insolvent” means:</p> <p>(A) having generally ceased to pay debts in the ordinary course of business other than as a result of a bona fide dispute;</p> <p>(B) being unable to pay debts as they become due; or</p> <p>(C) being insolvent within the meaning of federal bankruptcy law.</p> <p>(8) “Legal tender” means a medium of exchange or unit of value, including the coin or paper money of the United States, issued by the United States or by another government.</p> <p>(9) “Licensee” means a person licensed under this [act].</p> <p>(10) “Person” means an individual, partnership, estate, business or nonprofit entity, [public corporation,</p>	<p>person subject to this Article.</p> <p>(6) Controlling person. – Any person in control of a licensee or person subject to this Article.</p> <p>(7) <b>Depository institution.</b> – Any bank, savings association, mutual savings bank, savings bank, or other institution as defined in Section 3 of the Federal Deposit Insurance Act and any credit union whose share and deposit accounts are insured by the National Credit Union Administration under the Federal Credit Union Act.</p> <p>(8) Engage in the business of. – For compensation or gain, or in expectation of compensation or gain, either directly or indirectly, to make available monetary transmission services to North Carolina consumers for personal, family, or household purposes.</p> <p>(9) Executive officer. – The chief executive officer, chief operating officer, chief financial officer, chief compliance officer, chief technology officer, or any other individual the Commissioner identifies who exercises significant influence over, or participates in, major policy making decisions of the applicant or licensee without regard to title, salary, or compensation.</p> <p>(10) Licensee. – A person licensed under this Article.</p> <p>(11) Material litigation. – Any litigation that, according to generally accepted accounting principles, is deemed significant to an applicant's or licensee's financial health and would be required to be referenced in that entity's annual audited financial statements, report to shareholders, or similar documents.</p> <p>(12) Monetary value. – A medium of exchange, whether or not redeemable in money.</p>	<p>management, operations, or policies of the person”. Section 306(b) establishes two rebuttable presumptions of control of a person. The MTA defines “control” in the second context only and quantifies a presumption of “control”.</p> <p>The MTA defines “engage in the business of” as providing money transmission services to “North Carolina consumers for personal, family, or household purposes.” The Uniform Act defines and also applies to “residents” but does not limit its scope to money transmission services for “personal, family, or household purposes.”</p>

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<p>government or governmental subdivision, agency, or instrumentality,] or other legal entity. [The term does not include a public corporation, government or governmental subdivision, agency, or instrumentality.]</p> <p>(11) “Reciprocity agreement” means an arrangement between the department and the appropriate licensing agency of another state which permits a licensee operating under a license granted by the other state to engage in virtual-currency business activity with or on behalf of a resident.</p> <p>(12) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.</p> <p>(13) “Registrant” means a person that has registered with this state under Section 207 to conduct virtual-currency business activity.</p> <p>(14) “Registration” means the ability under Section 207 to conduct virtual-currency business activity.</p> <p>(15) “Registry” means the Nationwide Multistate Licensing System and Registry.</p> <p>(16) “Resident”:</p> <p>(A) means a person that</p> <p>(i) is domiciled in this state;</p> <p>(ii) is physically located in this state for more than 183 days of the previous 365 days; or</p> <p>(iii) has a place of business in this state; and</p> <p>(B) includes a legal representative of a person that satisfies subparagraph (A).</p>	<p>(13) <b>Money transmission.</b> – To engage in the business of any of the following:</p> <p>a. Sale or issuance of payment instruments or stored value primarily for personal, family, or household purposes; or</p> <p>b. Receiving money or monetary value for transmission or holding funds incidental to transmission within the United States or to locations abroad by any and all means, including payment instrument, stored value, wire, facsimile, or electronic transfer, primarily for personal, family, or household purposes. This includes maintaining control of virtual currency on behalf of others.</p> <p>(14) <b>NMLS.</b> – The Nationwide Mortgage Licensing System and Registry or its successors.</p> <p>(15) Outstanding transmission obligation. –</p> <p>a. Any payment instrument or stored value issued by the licensee which has been sold in the United States directly by the licensee, or any payment instrument or stored value issued by the licensee which has been sold by an authorized delegate of the licensee in the United States, but in either case has not yet been paid or refunded by the licensee.</p> <p>b. Any money or monetary value received by the licensee for transmission that has not been remitted to the payee or refunded to the sender.</p>	<p>Please see below for a comparison between the Uniform Act’s definition of “virtual-currency business activity” and the MTA’s definition of “money transmission”.</p> <p>The Nationwide <i>Multistate</i> Licensing System and Registry is the same as the Nationwide <i>Mortgage</i> Licensing System and Registry.</p>

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<p>(17) “Responsible individual” means an individual who has managerial authority with respect to a licensee’s or registrant’s virtual-currency business activity with or on behalf of a resident.</p> <p>(18) “Sign” means, with present intent to authenticate or adopt a record:</p> <p style="padding-left: 40px;">(A) to execute or adopt a tangible symbol; or</p> <p style="padding-left: 40px;">(B) to attach to or logically associate with the record an electronic symbol, sound, or process.</p> <p>(19) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.</p>	<p>To the extent that the outstanding transmission obligation was received in virtual currency, for the purposes of compliance with this Article, the obligation shall be denominated in the amount or value to be transmitted to the payee.</p> <p>(16) Payment instrument. – A check, draft, money order, traveler’s check, or other instrument for the transmission or payment of money or monetary value, whether or not negotiable. The term does not include a credit card voucher, letter of credit, or any other instrument that is redeemable by the issuer exclusively in goods or services.</p> <p>(17) Permissible investments. – One or more of the following, but only to the extent that they are maintained in an account located in the United States:</p> <p style="padding-left: 40px;">a. Cash.</p> <p style="padding-left: 40px;">b. Certificates of deposit or other debt obligations of a depository institution, either domestic or foreign.</p> <p style="padding-left: 40px;">c. Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers’ acceptances, which are eligible for purchase by member banks of the Federal Reserve System.</p> <p style="padding-left: 40px;">d. Any investment bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates securities.</p> <p style="padding-left: 40px;">e. Investment securities that are obligations of the United States, its agencies, or instrumentalities or obligations that are guaranteed fully as to principal and interest of the United States or any obligations of any state, municipality, or any political subdivision thereof.</p> <p style="padding-left: 40px;">f. Shares in a money market mutual fund, interest-bearing bills or notes or bonds, debentures, or preferred stock</p>	

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<p>(20) <b>“Store,”</b> except in the phrase “store of value,” means to maintain control of virtual currency on behalf of a resident by a person other than the resident. “Storage” and “storing” have corresponding meanings.</p> <p>(21) “Transfer” means to assume control of virtual currency from or on behalf of a resident and to:</p> <p>(A) credit the virtual currency to the account of another person;</p> <p>(B) move the virtual currency from one account of a resident to another account of the same resident; or</p>	<p>traded on any national securities exchange or on a national over-the-counter market, or mutual funds primarily composed of such securities or a fund composed of one or more permissible investments as set forth herein.</p> <p>g. Any demand borrowing agreement or agreements made to a corporation or a subsidiary of a corporation whose capital stock is listed on a national exchange.</p> <p>h. Value of receivables due to the licensee that are no more than 90 days past due or otherwise doubtful of collection.</p> <p>i. Virtual currency owned by the licensee, but only to the extent of outstanding transmission obligations received by the licensee in like-kind virtual currency.</p> <p>j. Any other investments or security device approved by the Commissioner.</p> <p>(18) <b>Person.</b> – Any individual, partnership, limited liability company, limited partnership, association, joint-stock association, trust, corporation, or other group engaged in joint business activities however organized.</p> <p>(19) <b>Stored value.</b> – Monetary value representing a claim against the issuer that is stored on an electronic or digital medium and is evidenced by an electronic or digital record, and that is intended and accepted for use as a means of redemption for money or monetary value or payment for goods or services. The term does not include stored value that is redeemable by the issuer exclusively in goods or services; stored value that is redeemable exclusively in goods or services limited to transactions involving a defined merchant or location or set of locations, such as a specific retailer or retail chain, college campus, or subway system; or program points, miles, or other units issued in connection with a customer affinity or rewards program, even if there is a</p>	<p>The Uniform Act defines “store”, except in the phrase “store of value”. Conversely, the MTA defines “stored value” and excludes from its definition non-cash-out value issued in connection with a customer affinity or rewards program.</p>

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<p>(C) relinquish control of virtual currency to another person.</p> <p>(22) “U.S. Dollar equivalent of virtual currency” means the equivalent value of a particular virtual currency in United States dollars shown on a virtual-currency exchange based in the United States for a particular date or period specified in this [act].</p> <p>(23) “Virtual currency”:</p> <p>(A) means a digital representation of value that:</p> <p>(i) is used as a medium of exchange, unit of account, or store of value; and</p> <p>(ii) is not legal tender, whether or not denominated in legal tender; and</p> <p>(B) does not include:</p> <p>(i) a transaction in which a merchant grants, as part of an affinity or rewards program, value that cannot be taken from or exchanged with the merchant for legal tender, bank credit, or virtual currency; or</p> <p>(ii) a digital representation of value issued by or on behalf of a publisher and used solely within an online game, game platform, or family of games sold by the same publisher or offered on the same game platform.</p> <p>(24) “Virtual-currency administration” means issuing virtual currency with the authority to redeem the currency for legal tender, bank credit, or other virtual currency.</p> <p>(25) “Virtual-currency business activity” means:</p>	<p>secondary market for the stored value.</p> <p>(20) <b>Virtual currency.</b> – A digital representation of value that can be digitally traded and functions as a medium of exchange, a unit of account, or a store of value but only to the extent defined as stored value under subdivision (19) of this section, but does not have legal tender status as recognized by the United States Government.</p>	<p>Both the Uniform Act and the MTA define “virtual currency” as a “digital representation of value” that can be used as a medium of exchange, unit of account, or store of value but that is not legal tender. The Uniform Act specifically excludes non-cash-out value issued in connection with a customer affinity or rewards program and non-cash-out value used within a computer game.</p> <p>The Uniform Act defines “virtual-currency business activity” as (1) exchanging, transferring, or storing virtual</p>



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<p>(A) exchanging, transferring, or storing virtual currency or engaging in virtual-currency administration, whether directly or through an agreement with a virtual-currency control-services vendor;</p> <p>(B) holding electronic precious metals or electronic certificates representing interests in precious metals on behalf of another person or issuing shares or electronic certificates representing interests in precious metals; or</p> <p>(C) exchanging one or more digital representations of value used within one or more online games, game platforms, or family of games for:</p> <p style="padding-left: 40px;">(i) virtual currency offered by or on behalf of the same publisher from which the original digital representation of value was received; or</p> <p style="padding-left: 40px;">(ii) legal tender or bank credit outside the online game, game platform, or family of games offered by or on behalf of the same publisher from which the original digital representation of value was received.</p> <p>(26) “Virtual-currency control-services vendor” means a person that has control of virtual currency solely under an agreement with a person that, on behalf of another person, assumes control of virtual currency.</p>		<p>currency or engaging in virtual-currency administration; (2) holding electronic precious metals or electronic certificates of precious metals on behalf of another person or issuing electronic certificates of precious metals; or (3) exchanging value used within a computer game for virtual currency, legal tender, or bank credit. “Exchange”, “transfer”, “store” and “virtual-currency business administration” are all defined terms.</p> <p>In contrast, the MTA defines “money transmission” as engaging in the business of either of the following for primarily personal, family, or household purposes: (1) the sale or issuance of payment instruments or stored value; or (2) receiving monetary value, including virtual currency, for transmission.</p>
<p><b>SECTION 103. SCOPE.</b></p> <p>(a) Except as otherwise provided in subsection (b) or (c), this [act] governs the virtual-currency business activity of a person, wherever located, that engages in or holds itself out as engaging in the activity with or on behalf of a resident.</p> <p>(b) This [act] does not apply to the exchange, transfer, or storage of virtual currency or to virtual-currency administration to the extent the Electronic Fund Transfer Act of 1978, 15 U.S.C. Sections 1693 through 1693r [as amended], the Securities Exchange Act of 1934, 15 U.S.C. Sections 78a through 78oo [as amended], the Commodities Exchange Act of 1936, 7 U.S.C.</p>	<p><b>§ 53-208.44. Exemptions.</b></p> <p>(a) This Article shall not apply to any of the following:</p> <p style="padding-left: 40px;">(1) The United States or any department, agency, or instrumentality or by a contractor thereof.</p> <p style="padding-left: 40px;">(2) The United States Postal Service.</p> <p style="padding-left: 40px;">(3) The State or any political subdivisions or by a contractor thereof.</p>	<p>The Uniform Act applies to a person’s virtual-currency business activity with a resident but does not apply to virtual-currency business activity that is already governed by the Electronic Fund Transfer Act of 1978, the Securities Exchange Act of 1934, the Commodities Exchange Act of 1936, and state “blue sky” laws.</p>

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<p>Sections 1 through 27f [as amended], or [insert citation to “blue sky” laws of this state] govern the activity. This [act] does not apply to activity by:</p> <p>(1) the United States, a state, political subdivision of a state, agency or instrumentality of federal, state, or local government, or a foreign government or a subdivision, department, agency or instrumentality of a foreign government;</p> <p>(2) a bank;</p> <p>(3) a person engaged in money transmission that:</p> <p>(A) holds a license under [insert citation to money-services or money- transmission statute of this state];</p> <p>(B) is authorized by the department to engage in virtual-currency business activity; and</p> <p>(C) complies with [Articles] 2, 3, 5, and 6;</p> <p>(4) a person whose participation in a payment system is limited to providing processing, clearing, or performing settlement services solely for transactions between or among persons that are exempt from the licensing or registration requirements of this [act];</p> <p>(5) a person engaged in the business of dealing in foreign exchange to the extent the person’s activity meets the definition in 31 C.F.R. Section 1010.605(f)(1)(iv) [ as amended];</p> <p>(6) a person that:</p> <p>(A) contributes only connectivity software or computing power to a decentralized virtual currency, or to a protocol governing transfer of the digital representation of value;</p> <p>(B) provides only data storage or security services for a</p>	<p>(4) Banks, credit unions, savings and loan associations, savings banks, or mutual banks organized under the laws of any state or the United States.</p> <p>(5) A person registered as a securities broker-dealer under federal or state securities laws to the extent of its operation as a broker-dealer.</p> <p>(6) The provision of electronic transfer of government benefits for any federal, state, or county governmental agency as defined in Regulation E, 12 C.F.R. § 1005 et seq., by a contractor for and on behalf of the United States or any department, agency, or instrumentality thereof, or any state or any political subdivisions thereof.</p> <p>(7) A person that is engaged exclusively in any of the following:</p> <p>a. Delivering wages or salaries on behalf of employers to employees.</p> <p>b. Facilitating the payment of payroll taxes to State and federal agencies.</p> <p>c. Making payments relating to employee benefit plans.</p> <p>d. Making distribution of other authorized deductions from employees' wages or salaries.</p> <p>e. Transmitting other funds on behalf of an employer in connection with transactions related to employees.</p> <p>(8) A person appointed by a payee to collect and process payments as the bona fide agent of the payee, provided the person can demonstrate to the Commissioner all of the following:</p> <p>a. There exists a written agreement between the payee and agent directing the agent to collect and process payments</p>	<p>Both the Uniform Act and the MTA exempt the federal and state government and depository institutions.</p>



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<p>business engaged in virtual-currency business activity and does not otherwise engage in virtual-currency business activity on behalf of another person; or</p> <p>(C) provides only to a person otherwise exempt from this [act] virtual currency as one or more enterprise solutions used solely among each other and has no agreement or relationship with a resident that is an end-user of virtual currency;</p> <p>(7) a person using virtual currency, including creating, investing, buying or selling, or obtaining virtual currency as payment for the purchase or sale of goods or services, solely:</p> <p>(A) on its own behalf;</p> <p>(B) for personal, family, or household purposes; or</p> <p>(C) for academic purposes;</p> <p>(8) a person whose virtual-currency business activity with or on behalf of residents is reasonably expected to be valued, in the aggregate, on an annual basis at \$5,000 or less, measured by the U.S. Dollar equivalent of virtual currency;</p> <p>(9) an attorney to the extent of providing escrow services to a resident;</p> <p>(10) a title insurance company to the extent of providing escrow services to a resident;</p> <p>(11) a securities intermediary, as defined in [insert citation to U.C.C. Section 8-102 of this state], or a commodity intermediary, as defined in [insert citation to U.C.C. 9-102 of this state], that:</p> <p>(A) does not engage in the ordinary course of business in virtual-currency business activity with or on behalf of a resident in addition to maintaining securities accounts or commodities accounts and is regulated as a securities</p>	<p>on the payee's behalf.</p> <p>b. The payee holds the agent out to the public as accepting payments on the payee's behalf.</p> <p>c. Payment is treated as received by the payee upon receipt by the agent.</p> <p>This exemption extends to those otherwise engaged in money transmission as set forth in G.S. 53-208.42(13)b., including those transactions conducted in whole or in part in virtual currency.</p> <p>(b) Any person who seeks to engage in the business of money transmission in this State subject to exemption under (a)(7) or (a)(8) of this section shall submit a written request for verification of exemption to the Commissioner. Such request shall be in a form acceptable to the Commissioner and shall include a copy of any written agreement and related documentation that is the basis for the specified exemption.</p> <p>(c) Licensees may authorize delegates to engage in money transmission on their behalf subject to this Article subject to an express written agreement, which shall provide the following:</p> <p>(1) The licensee appoints the person as its delegate with authority to engage in money transmission on behalf of the licensee in this State.</p> <p>(2) Neither a licensee nor an authorized delegate may authorize sub-delegates without the written consent of the Commissioner.</p> <p>(3) Authorized delegates, in their capacity as agents of the licensee, are subject to the supervision and regulation by the Commissioner notwithstanding exemption from licensure.</p> <p>(4) The licensee shall issue a certificate of authority for each branch office at which it conducts licensed activities in this</p>	<p>The Uniform Act exempts a person using virtual currency solely for personal, family, household, or academic purposes.</p> <p>The Uniform Act exempts a person whose annual volume of virtual-currency business activity is \$5,000 or less.</p> <p>The MTA allows a money transmitter to authorize delegates to engage in money transmission on their behalf.</p> <p>The Uniform Act exempts a securities intermediary or a commodity intermediary who does not engage in the ordinary course of business in virtual-currency business activity and affords a resident protections comparable to those set forth in Section 502 of the Uniform Act.</p>

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<p>intermediary or commodity intermediary under federal law, law of this state other than this [act], or law of another state; and</p> <p>(B) affords a resident protections comparable to those set forth in Section 502;</p> <p>(12) a secured creditor under [insert citation to U.C.C. Article 9 of any state] or creditor with a judicial lien or lien arising by operation of law on collateral that is virtual currency, if the virtual-currency business activity of the creditor is limited to enforcement of the security interest in compliance with [insert citation to U.C.C. Article 9 of any state] or lien in compliance with the law applicable to the lien;</p> <p>(13) a virtual-currency control-services vendor; or</p> <p>(14) a person that:</p> <p>(A) does not receive compensation from a resident for:</p> <p>(i) providing virtual-currency products or services; or</p> <p>(ii) conducting virtual-currency business activity; or</p> <p>(B) is engaged in testing products or services with the person's own funds.</p> <p>(c) The department may determine that a person or class of persons, given facts particular to the person or class, should be exempt from this [act], whether the person or class is covered by requirements imposed under federal law on a money-service business.</p>	<p>State through an authorized delegate, which shall be posted in public view and read as follows: "Money transmission on behalf of (licensee) is conducted at this location pursuant to the North Carolina Money Transmitters Act, N.C.G.S. § 53-208.41 et seq."</p> <p>Licensees conducting money transmission subject to this Article are required to maintain full charge, control, and supervision of any authorized delegate and are responsible for ensuring any activity undertaken by an authorized delegate on behalf of the licensee is in compliance with this Article.</p> <p>(d) The Commissioner may, by rule or by order, exempt from all or part of this Article any person, transaction, or class of persons or transactions if the Commissioner finds such action to be in the public interest and that the regulation of such persons or transactions is not necessary for the purposes of this Article.</p>	<p>The MTA exempts a person registered as a securities broker-dealer under federal or state securities laws to the extent of its operation as a broker-dealer.</p> <p>Both the Uniform Act and the MTA give the regulatory body discretion to make further exemptions.</p>
<p><b>SECTION 104. SUPPLEMENTARY LAW.</b></p> <p>Unless displaced by the particular provisions of this [act], the principles of law and equity supplement its provisions.</p>	<p><b>None</b></p>	

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<p style="text-align: center;"><b>[ARTICLE] 2 LICENSURE</b></p> <p><b>SECTION 201. CONDITIONS PRECEDENT TO ENGAGING IN VIRTUAL-CURRENCY BUSINESS ACTIVITY.</b></p> <p>A person may not engage in virtual-currency business activity, or hold itself out as being able to engage in virtual-currency business activity, with or on behalf of a resident unless the person is:</p> <ul style="list-style-type: none"> <li>(1) licensed in this state by the department under Section 202;</li> <li>(2) licensed in another state to conduct virtual-currency business activity by a state with which this state has a reciprocity agreement and has qualified under Section 203;</li> <li>(3) registered with the department and operating in compliance with Section 207; or</li> <li>(4) exempt from licensure or registration under this [act] by Section 103(b) or (c).</li> </ul>	<p><b>§ 53-208.43. License requirement.</b></p> <p>(a) No person except those exempt pursuant to G.S. 53-208.44 shall engage in the business of money transmission in this State without a license as provided in this Article.</p> <p>(b) A licensee may conduct its business in this State at one or more locations, directly or indirectly owned, or through one or more authorized delegates, or both, pursuant to the single license granted under this Article.</p> <p>(c) For the purposes of this Article, a person is considered to be engaged in the business of money transmission in this State if that person solicits or advertises money transmission services from a Web site that North Carolina citizens may access in order to enter into those transactions by electronic means.</p>	<p>The Uniform Act divides virtual-currency businesses into three categories: (1) exempt businesses, (2) businesses that must register, and (3) businesses that must be licensed. In contrast, the MTA divides money transmitters into two categories: (1) exempt businesses, and (2) businesses that must be licensed.</p>
<p><b>SECTION 202. LICENSE BY APPLICATION.</b></p> <p>(a) Except as otherwise provided in Section 203, an application for a license under this [act]:</p> <ul style="list-style-type: none"> <li>(1) must be made in a form and medium prescribed by the department or the registry;</li> <li>(2) except as otherwise provided in subsection (b), must provide the following information relevant to the applicant's proposed virtual-currency business activity: <ul style="list-style-type: none"> <li>(A) the legal name of the applicant, each current or proposed business United States Postal Service address of the applicant, and any fictitious or trade name the applicant uses or plans to use in conducting its virtual-</li> </ul> </li> </ul>	<p><b>§ 53-208.45. License application.</b></p> <p>(a) Applications under this Article shall be filed through the NMLS in a form acceptable to the Commissioner. To be considered complete, all applications shall be verified by oath or affirmation of the applicant or a designee thereof and shall contain:</p> <ul style="list-style-type: none"> <li>(1) The legal name, along with any assumed names or trade names, principal address, contact information, and social security number or taxpayer identification number of the applicant.</li> <li>(2) The applicant's form and place of organization, if applicable.</li> </ul>	<p>Both the Uniform Act and the MTA require licensees to submit an extensive application that includes the business's legal name, any assumed business names, financial information, bank information, information relating to registration with the U.S. Treasury Financial Crimes Enforcement Network (FinCEN), any history of crimes or material civil litigation, information on key individuals within the business, and other information the</p>

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<p>currency business activity with or on behalf of a resident;</p> <p>(B) the legal name, any former or fictitious name, and the residential and business United States Postal Service address of each executive officer and responsible individual of the applicant, and each person that has control of the applicant;</p> <p>(C) a description of the current and former business of the applicant for the five years before the application is submitted or if the business has operated for less than five years, for the time the business has operated, including its products and services, associated website addresses and social media pages, principal place of business, projected user base, and specific marketing targets;</p> <p>(D) the name, United States Postal Service address, and telephone number of a person that manages each server the applicant expects to use in conducting its virtual-currency business activity with or on behalf of a resident and a copy of any agreement with that person;</p> <p>(E) a list of:</p> <ul style="list-style-type: none"> <li>(i) each money-service or money-transmitter license the applicant holds in another state;</li> <li>(ii) the date the license expires; and</li> <li>(iii) any license revocation, license suspension, or other disciplinary action taken against the licensee in another state and any license applications rejected by another state;</li> </ul> <p>(F) a list of any criminal conviction, deferred prosecution agreement, and pending criminal proceeding in any jurisdiction against:</p> <ul style="list-style-type: none"> <li>(i) the applicant;</li> </ul>	<p>(3) A certificate of good standing from the state in which the applicant was incorporated, if applicable.</p> <p>(4) A certificate of authority from the North Carolina Secretary of State to conduct business in this State, if required by the North Carolina Business Corporations Act, Chapter 55 of the General Statutes, or other evidence of applicant's registration or qualification to do business in this State.</p> <p>(5) A copy of the applicant's active money service business registration with the United States Department of Treasury Financial Crimes Enforcement Network.</p> <p>(6) A detailed description of the organizational structure of the applicant, including the identity of parents or subsidiaries of the applicant, and the disclosure of whether any parent or subsidiary is publicly traded on any stock exchange.</p> <p>(7) A detailed business plan, including a description of the activities conducted by the applicant, including a history of any existing operations and a description of the money transmission activities in which the applicant seeks to be engaged in the State.</p> <p>(8) A copy of the applicant's policies and procedures, including the anti-money laundering compliance program.</p> <p>(9) A detailed description of the applicant's internal business controls, including controls specific to information technology and data integrity.</p> <p>(10) The history of the material civil litigation and a record of any criminal convictions for the applicant, controlling person, and key management personnel for a 10-year period prior to the date of the application, including authorization to perform a federal and State criminal background check.</p>	<p>regulatory body requests. However, both statutes allow the regulatory body, for good cause shown, to waive requirements.</p> <p>The Uniform Act license application also includes information on the person managing the business's server and any disciplinary history.</p>

(ii) each executive officer of the applicant;

(iii) each responsible individual of the applicant;

(iv) each person that has control over the applicant;  
and

(v) each person over which the applicant has control;

(G) a list of any litigation, arbitration, or administrative proceeding in any jurisdiction in which the applicant, or an executive officer or a responsible individual of the applicant has been a party for the five years before the application is submitted, determined to be material in accordance with generally accepted accounting principles and, to the extent the applicant would be required to disclose the litigation, arbitration, or administrative proceeding in the applicant's audited financial statements, reports to equity owners, and similar statements or reports;

(H) a list of any bankruptcy or receivership proceeding in any jurisdiction for the 10 years before the application is submitted in which any of the following was a debtor:

(i) the applicant;

(ii) each executive officer of the applicant;

(iii) each responsible individual of the applicant;

(iv) each person that has control over the applicant;  
and

(v) each person over which the applicant has control;

(I) the name and United States Postal Service address of each bank in which the applicant plans to deposit funds obtained by its virtual-currency business activity;

(J) the source of funds and credit to be used by the applicant to conduct virtual-currency business activity

(11) The name, business and residence address, and employment history for the past five years for any controlling person and key management personnel.

(12) A sample payment instrument, if applicable, which bears the name and address or telephone number of the issuer clearly printed on the payment instrument.

(13) If the applicant seeks to engage in money transmission in this State through authorized delegates:

a. A list identifying the proposed authorized delegates, including the name, mailing address, and other contact information of a representative of the authorized delegate and associated branch locations;

b. A sample authorized delegate contract.

(14) The name and address of the clearing bank or banks on which the applicant's payment instruments will be drawn or through which the payment instruments will be payable.

(15) A copy of the applicant's most recent audited financial statement, including the balance sheet, statement of income or loss, statement of changes in shareholder equity, if

with or on behalf of a resident and documentation demonstrating that the applicant has the net worth and reserves required by Section 204;

(K) the United States Postal Service address and electronic mail address to which communications from the department may be sent;

(L) the name, United States Postal Service address, and electronic mail address of the registered agent of the applicant in this state;

(M) a copy of the certificate, or a detailed summary acceptable to the department, of coverage for each liability, casualty, business-interruption or cyber-security insurance policy maintained by the applicant for itself, an executive officer, a responsible individual, or the applicant's users;

(N) if applicable, the date on which and the state where the applicant is formed and a copy of a current certificate of good standing issued by that state;

(O) if a person has control of the applicant and the person's equity interests are publicly traded in the United States, a copy of the audited financial statement of the person for the most recent fiscal year or most recent report of the person filed under Section 13 of the Securities Exchange Act of 1934, 15 U.S.C. Section 78m [as amended];

(P) if a person has control of the applicant and the person's equity interests are publicly traded outside the United States, a copy of the audited financial statement of the person for the most recent fiscal year of the person or a copy of the most recent documentation similar to that required in subparagraph (O) filed with the foreign regulator in the domicile of the person;

(Q) if the applicant is a partnership or a member-managed limited-liability company, the names and United States

applicable, and statement of changes in financial position and the applicant's audited financial statements for the immediately preceding two-year period. However, if the applicant is a wholly owned subsidiary of another corporation, the applicant may submit either the parent corporation's consolidated audited financial statements for the current year and for the immediately preceding two-year period or the parent corporation's Form 10K reports filed with the United States Securities and Exchange Commission for the prior three years in lieu of the applicant's financial statements. If the applicant is a wholly owned subsidiary of a corporation having its principal place of business outside the United States, similar documentation filed with the parent corporation's non-United States regulator may be submitted to satisfy this provision.

(16) Copies of all filings, if any, made by the applicant with the United States Securities and Exchange Commission, or with a similar regulator in a country other than the United States, within the year preceding the date of filing of the application.

(b) Upon request by the Commissioner or the Commissioner's designee, the applicant shall furnish any additional information necessary to enable the Commissioner to evaluate the application as required by G.S. 53-208.50.

(c) The Commissioner is authorized, for good cause shown, to waive any requirements of this section with respect to any application or to permit any applicant to submit equivalent information in lieu of the information required by this section.

...



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<p>Postal Service addresses of general partners or members;</p> <p>(R) if the applicant is required to register with the Financial Crimes Enforcement Network of the United States Department of the Treasury as a money-service business, evidence of the registration;</p> <p>(S) a set of fingerprints for each executive officer and responsible individual of the applicant;</p> <p>(T) if available, for each executive officer and responsible individual of the applicant, for the five years before the application is submitted:</p> <p>(i) employment history; and</p> <p>(ii) history of any investigation of the individual or legal proceeding to which the individual was a party;</p> <p>(U) the plans through which the applicant will meet its obligations under [Article] 6; and</p> <p>(V) other information the department reasonably requires by rule; and</p> <p>(3) must be accompanied by a nonrefundable fee in the amount [required by law of this state other than this [act] or specified by the department by rule].</p> <p>(b) For good cause, the department may waive a requirement of subsection (a) or permit the applicant to submit other information instead of the required information.</p> <p>(c) An application for a license under this section is not complete until the department receives all information required by this [act] and completes its investigation under subsection (d).</p> <p>(d) On receipt of a completed application:</p>	<p><b>§ 53-208.49. Application fees and annual assessment.</b></p> <p>(a) Application Fees. – Each application for initial licensure shall be accompanied by a nonrefundable filing fee of one thousand five hundred dollars (\$1,500).</p> <p>(b) Annual Assessment. – For the purpose of meeting the cost of regulation under this Article, each licensee shall pay to the Commissioner an annual assessment as provided in this subsection. The annual assessment shall consist of a base amount of five thousand dollars (\$5,000) for volumes of no more than one million dollars (\$1,000,000) plus an additional sum, calculated on the transmission dollar volume reported by the licensee pursuant to G.S. 53-208.53 for the previous calendar year. The cumulative assessment shall be calculated as follows:</p> <table><tr><th>Transmission in U.S. Dollar Volume</th><th>Per U.S. Dollar</th></tr><tr><td>\$1,000,001 to \$5,000,000</td><td>\$0.0008</td></tr><tr><td>\$5,000,001 to \$10,000,000</td><td>\$0.0006</td></tr><tr><td>\$10,000,001 to \$50,000,000</td><td>\$0.00004</td></tr><tr><td>More Than \$50,000,000.00</td><td>\$0.0000006</td></tr></table>	Transmission in U.S. Dollar Volume	Per U.S. Dollar	\$1,000,001 to \$5,000,000	\$0.0008	\$5,000,001 to \$10,000,000	\$0.0006	\$10,000,001 to \$50,000,000	\$0.00004	More Than \$50,000,000.00	\$0.0000006	<p>The Uniform Act has a generic reference to an application fee. The MTA provides for a \$1,500 fee for an initial application plus an annual assessment based on money transmission volume.</p> <p>Both the Uniform Act and the MTA require the regulatory body, on receipt of a completed application, to investigate the financial condition and character of the business.</p>
Transmission in U.S. Dollar Volume	Per U.S. Dollar											
\$1,000,001 to \$5,000,000	\$0.0008											
\$5,000,001 to \$10,000,000	\$0.0006											
\$10,000,001 to \$50,000,000	\$0.00004											
More Than \$50,000,000.00	\$0.0000006											

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<p>(1) the department shall investigate:</p> <p>(A) the financial condition and responsibility of the applicant;</p> <p>(B) the relevant financial and business experience, character, and general fitness of the applicant; and</p> <p>(C) the competence, experience, character, and general fitness of each executive officer, each responsible individual, and any person that has control of the applicant; and</p> <p>(2) the department may conduct an investigation of the business premises of an applicant.</p> <p>(e) Not later than 30 days after an application is complete, the department shall send the applicant notice of its decision to approve, conditionally approve, or deny the application. If the department does not send the applicant notice of its decision within 31 days of completion of the application, the application is deemed denied. If the department does not receive notice from the applicant that the applicant accepts conditions specified by the department within 31 days following the department's notice of the conditions, the application is deemed denied.</p> <p>(f) A license takes effect on the later of:</p> <p>(1) the date on which the department issues the license; or</p> <p>(2) the date the licensee provides the security required by Section 204.</p> <p>(g) An applicant shall pay the reasonable costs of the department's investigation under this section.</p>	<p>The Commissioner may collect the assessment provided for in this subsection annually or in periodic installments as approved by the State Banking Commission.</p> <p><b>§ 53-208.50. Issuance of license.</b></p> <p>(a) Upon receipt of a complete license application, as set forth under G.S. 53-208.45, the Commissioner shall investigate the financial condition and responsibility, financial and business experience, the character and general fitness of the applicant, and any other matters deemed relevant by the Commissioner. The Commissioner may require additional information and may require the amendment of the application in the course of the investigation. An applicant's failure to furnish all required information within 30 days after filing the application or within 30 days of a request by the Commissioner for additional information may be considered an abandonment of the application. In the course of the investigation, the Commissioner may conduct an on-site examination of the applicant, the reasonable cost of which shall be borne by the applicant.</p> <p>...</p> <p><b>§ 53-208.61. Service of process.</b></p> <p>(a) Any person subject to this Article is deemed to have:</p> <p>(1) Consented to the jurisdiction of the courts of this State for all actions arising under this Article; and</p> <p>(2) Appointed the Secretary of State as such person's agent for the purpose of accepting service of process in any action, suit, or proceeding that may arise under this Article.</p> <p>(b) For the purposes of this Article, the Commissioner shall be deemed to have complied with the requirements of law concerning service of process upon mailing by certified mail any notice required or permitted to a person subject to this Article, postage prepaid and addressed to the last known address on file with the Commissioner.</p>	<p>The Uniform Act license application includes information on the registered agent of the business in the state. In contrast, the MTA provides that the business is deemed to have appointed the N.C. Secretary of State as the business's agent for service of process.</p>

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<p><b>SECTION 203. LICENSE BY RECIPROCITY.</b></p> <p><b>Alternative A</b></p> <p>(a) Instead of an application required by Section 202, a person licensed by another state to conduct virtual-currency business activity in that state may file with the registry an application under this section.</p> <p>(b) When an application under this section is filed with the registry, the applicant shall notify the department in a record that the applicant has submitted the application to the registry and shall submit to the department:</p> <ul style="list-style-type: none"> <li>(1) a certification of license history from the agency responsible for issuing a license in each state in which the applicant has been licensed to conduct virtual-currency business activity;</li> <li>(2) a nonrefundable reciprocal licensing application fee in the amount [required by law of this state other than this [act] or specified by the department by rule];</li> <li>(3) documentation demonstrating that the applicant complies with the security and net worth reserve requirements of Section 204; and</li> <li>(4) a certification signed by an executive officer of the applicant affirming that the applicant will conduct its virtual-currency business activity with or on behalf of a resident in compliance with this [act].</li> </ul> <p>(c) The department may permit conduct of virtual-currency business activity by an applicant that complies with this section.</p> <p><b>Alternative B</b></p> <p>(a) A person licensed by another state to engage in virtual-currency business activity in that state may engage in virtual-currency business activity with or on behalf of a resident to the</p>	<p><b>§ 53-208.62. Commissioner's participation in nationwide registry.</b></p> <p>(a) The Commissioner may require all persons subject to this Article to be licensed through the NMLS, and upon issuing such requirement, the Commissioner shall establish a reasonable transition period. In order to carry out these requirements, the Commissioner is authorized to participate in the NMLS.</p> <p>(b) The Commissioner is authorized to establish relationships or contracts with the NMLS or other entities designated by the NMLS to collect and maintain records and process transaction fees or other fees related to licensees or other person subject to this Article.</p> <p>(c) For the purpose of participating in the NMLS, the Commissioner is authorized to waive or modify, in whole or in part, any or all of the requirements as reasonably necessary to participate in the NMLS.</p>	<p>The Uniform Act offers two alternatives for a license by reciprocity. The Uniform Law Commission's legislative note recommends Alternative A if the regulatory body participates in the Nationwide Multistate Licensing System and Registry ("the NMLS"). The N.C. Commissioner of Banks participates in the NMLS. The MTA does not specifically address the issue of license by reciprocity; however, the MTA authorizes the Commissioner to participate in the NMLS.</p>

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<p>same extent as a licensee if:</p> <p>(1) the department determines that the state in which the person is licensed has in force laws regulating virtual-currency business activity which are substantially similar to, or more protective of rights of users than, this [act];</p> <p>(2) at least 30 days before the person commences virtual-currency business activity with or on behalf of a resident, the person submits to the department:</p> <p>(A) notice containing:</p> <p>(i) a statement that the person will rely on reciprocal licensing;</p> <p>(ii) a copy of the license to conduct virtual-currency business activity issued by the other state; and</p> <p>(iii) a certification of license history from the agency responsible for issuing the license to conduct virtual-currency business activity in the other state;</p> <p>(B) a nonrefundable reciprocal license fee in the amount [required by law of this state other than this [act] or specified by the department by rule];</p> <p>(C) documentation demonstrating that the applicant complies with the security and net worth reserve requirements of Section 204; and</p> <p>(D) a certification signed by an executive officer of the applicant affirming that the applicant will conduct its virtual-currency business activity with or on behalf of a resident in compliance with this [act];</p> <p>(3) subject to subsection (b), the department does not deny the application not later than [15] days after receipt of the items submitted under paragraph (2); and</p>		

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<p>(4) subject to subsection (b), the applicant does not commence virtual-currency business activity with or on behalf of a resident until at least 31 days after complying with paragraph (2).</p> <p>(b) For good cause, the department may modify a period in this section.</p> <p style="text-align: center;"><b>End of Alternatives</b></p>		
<p><b>SECTION 204. SECURITY, NET WORTH, AND RESERVES.</b></p> <p>(a) Before a license is issued under this [act]:</p> <p>(1) an applicant must deposit with the department funds or investment property, a letter of credit, a surety bond, or other security satisfactory to the department that:</p> <p style="padding-left: 40px;">(A) secures the applicant's faithful performance of its duties under this [act]; and</p> <p style="padding-left: 40px;">(B) is in an amount the department specifies based on the nature and extent of risks in the applicant's virtual-currency business model;</p> <p>(2) the department may not require a surety bond as security under this [act] unless a surety bond is generally available in the state at a commercially reasonable cost;</p> <p>(3) security deposited under this section must be payable to this state for the benefit of a claim against the licensee on account of the licensee's virtual-currency business activity with or on behalf of a resident;</p> <p>(4) security deposited under this section must cover claims for the period the department specifies by rule and for an additional period the department specifies after the licensee ceases to engage in virtual-currency business activity with or</p>	<p><b>§ 53-208.46. Minimum net worth.</b></p> <p>(a) An applicant shall possess and a licensee shall maintain at all times a net worth of not less than two hundred fifty thousand dollars (\$250,000) calculated in accordance with generally accepted accounting principles.</p> <p>(b) The Commissioner may by order increase the amount of net worth required of an applicant or licensee if the Commissioner determines additional net worth is necessary to ensure safe and sound operation based on consideration of the following factors:</p> <p style="padding-left: 40px;">(1) The nature and volume of the projected or established business.</p> <p style="padding-left: 40px;">(2) The number of locations at or through which money transmission is or will be conducted.</p> <p style="padding-left: 40px;">(3) The amount, nature, quality, and liquidity of assets.</p> <p style="padding-left: 40px;">(4) The amount and nature of liabilities.</p> <p style="padding-left: 40px;">(5) The history of operations and prospects for earning and retaining income.</p> <p style="padding-left: 40px;">(6) The quality of operations and management.</p> <p style="padding-left: 40px;">(7) The nature and quality of controlling persons.</p>	<p>The Uniform Act requires a licensee to deposit a security with the regulatory body; however, the Uniform Act does not specify an amount or require a particular type of security. The Official Comment states that "forms of security may include virtual currency[,] . . . a guarantee, or possibly, even a letter asserting compliance." The Official Comment references the additional protections afforded by Section 502 of the Uniform Act, which is based on U.C.C. Sections 8-503 and 8-504. In contrast, the MTA requires a surety bond between \$150,000 and \$250,000, depending on the money transmission volume; however, the MTA allows a licensee to use cash or certain securities in lieu of a surety bond.</p>

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<p>on behalf of a resident;</p> <p>(5) for good cause, the department may require the licensee to increase the amount of security deposited under this section, and the licensee shall deposit the additional security not later than [15] days after the licensee receives notice in a record of the required increase;</p> <p>(6) for good cause, the department may permit a licensee to substitute or deposit an alternate form of security satisfactory to the department if the licensee at all times complies with this section;</p> <p>(7) a claimant does not have a direct right to recover against security deposited under this section; and</p> <p>(8) only the department may recover against the security, and the department may retain the recovery for no longer than [five] years and may process claims and distribute recoveries to claimants in accordance with rules adopted by the department under [insert citation to uniform money-services act or money-transmitters act of this state].</p> <p>(b) In addition to the security required under subsection (a), a licensee and a registrant, at the time of the application for a license under this act or filing of registration, shall submit to the department evidence of and maintain:</p> <p>(1) a minimum net worth of \$[25,000]; and</p> <p>(2) sufficient unencumbered reserves for winding down the licensee's or registrant's operations as agreed to by the department considering the nature and size of expected virtual-currency business activity with or on behalf of residents.</p> <p>(c) A licensee or registrant may include in its calculation of net worth virtual currency, measured by the average value of the virtual currency in U.S. Dollar equivalent over the prior six months, other than the virtual currency over which it has control</p>	<p>(8) The history of compliance with applicable State and federal law.</p> <p>(9) Any other factors the Commissioner deems relevant.</p> <p><b>§ 53-208.47. Surety bond.</b></p> <p>(a) Applicants shall be required to post a surety bond with the Commissioner at application and licensees shall maintain a surety bond in the amount of one hundred fifty thousand dollars (\$150,000) to be subsequently adjusted as set forth in subsection (b) of this section.</p> <p>(b) The surety bond amount required subsequent to initial licensure shall consist of a base amount of one hundred fifty thousand dollars (\$150,000) for money transmission volumes in this State of no more than one million dollars (\$1,000,000). However, if a licensee has transmission volume in North Carolina in a 12-month period ending December 31 in excess of one million dollars (\$1,000,000) but less than five million dollars (\$5,000,000), then the licensee's bond amount shall be one hundred seventy five thousand dollars (\$175,000); if a licensee has transmission volume in North Carolina in a 12-month period ending December 31 in excess of five million dollars (\$5,000,000) but less than ten million dollars (\$10,000,000), then the licensee's bond amount shall be two hundred thousand dollars (\$200,000); if a licensee has transmission volume in North Carolina in a 12-month period ending December 31 in excess of ten million dollars (\$10,000,000) but less than fifty million dollars (\$50,000,000), then the licensee's bond amount shall be two hundred twenty-five thousand dollars (\$225,000); and if a licensee has transmission volume in North Carolina in a 12-month period ending December 31 in excess of fifty million dollars (\$50,000,000), then the licensee's bond amount shall be two hundred fifty thousand dollars (\$250,000).</p> <p>(c) Any increased surety bond required under subsection (b) of this section shall be filed with the Commissioner on or before May 31 annually. Failure to obtain the additional surety bond</p>	<p>The Uniform Act provides that a claimant does not have a direct right to recover against the security. In contrast, the MTA does give a claimant a right to sue directly on the surety bond.</p> <p>The Uniform Act requires that both a licensee and a registrant have a minimum net worth of \$25,000, but the MTA requires that a licensee have a minimum net worth of \$250,000.</p> <p>The Uniform Act requires that both a licensee and a registrant have "sufficient unencumbered reserves for winding down the licensee's or registrant's operations". The MTA requires that a licensee have unencumbered permissible investments of not less than the amount of all outstanding</p>



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<p>for a resident entitled to the protections under Section 502.</p> <p>(d) For good cause, the department may require a licensee or registrant to increase the net worth or reserves required under this section. The licensee or registrant shall submit to the department evidence that it has the additional net worth or reserves not later than [15] days after the licensee or registrant receives notice in a record of the required increase.</p>	<p>required is grounds for summary suspension pursuant to G.S. 53-208.57(d)(2).</p> <p>(d) The surety bond shall be in a form satisfactory to the Commissioner and shall run to the State for the benefit of any claimants against the licensee to secure the faithful performance of the obligations of the licensee with respect to the receipt, handling, transmission, and payment of money or monetary value in connection with the sale and issuance of payment instruments, stored value, or transmission of money. The Commissioner has the discretion to require the applicant to obtain additional insurance coverage to address related cybersecurity risks inherent in the applicant's business model as it relates to virtual currency transmission and to the extent such risks are not within the scope of the required surety bond.</p> <p>(e) The aggregate liability of the surety in no event shall exceed the principal sum of the bond. Claimants against the licensee may themselves bring suit directly on the security bond, or the Commissioner may bring suit on behalf of claimants, either in one action or in successive actions.</p> <p>(f) In lieu of a surety bond, the licensee may deposit with the Commissioner, or with any bank in this State designated by the licensee and approved by the Commissioner, an aggregate amount, based upon principal amount or market value, whichever is lower, of not less than the amount of the surety bond or portion thereof, the following:</p> <ul style="list-style-type: none"> <li>(1) Unencumbered cash.</li> <li>(2) Unencumbered interest-bearing bonds.</li> <li>(3) Unencumbered notes.</li> <li>(4) Unencumbered debentures.</li> </ul>	<p>transmission obligations. “Outstanding transmission obligation” and “permissible investments” are both defined terms.</p>

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	<p>(5) Unencumbered obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States.</p> <p>(6) Unencumbered obligations of this State or of any political subdivision of the State, or guaranteed by this State.</p> <p>The securities or cash shall be deposited as aforesaid and held to secure the same obligations as would the surety bond, but the depositor shall be entitled to receive all interest and dividends thereon, shall have the right, with the approval of the Commissioner, to substitute other securities for those deposited, and shall be required to do so on written order of the Commissioner made for good cause shown.</p> <p>(g) The surety bond shall remain in effect until cancellation, which may occur only after 90 days' written notice to the Commissioner. Cancellation shall not affect any liability incurred or accrued during that period.</p> <p>(h) The surety bond shall remain in place for no less than five years after the licensee ceases money transmission operations in the State. However, notwithstanding this provision, the Commissioner may permit the surety bond to be reduced or eliminated prior to that time to the extent that the amount of the licensee's outstanding payment instruments, stored value obligations, and money transmitted in this State is reduced.</p> <p>(i) The surety bond proceeds and any cash or other collateral posted as security by a licensee shall be deemed by operation of law to be held in trust for the benefit of the purchasers and holders of the licensee's outstanding payment instruments, stored value obligations, and money transmissions and to the State in the event of the bankruptcy of the licensee.</p> <p><b>§ 53-208.48. Permissible investments and statutory trust.</b></p> <p>(a) Each licensee under this Article shall possess at all times unencumbered permissible investments having an aggregate</p>	

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	<p>market value, calculated in accordance with generally accepted accounting principles, of not less than the aggregate face amount of all outstanding transmission obligations. This requirement may be waived by the Commissioner if the dollar volume of a licensee's outstanding transmission obligations does not exceed the bond or other security devices posted by the licensee pursuant to G.S. 53-208.47.</p> <p>(b) Permissible investments, even if commingled with other assets of the licensee, shall be deemed by operation of law to be held in trust for the benefit of the purchasers and holders of the licensee's outstanding payment instruments and stored value obligations in the event of the bankruptcy of the licensee.</p>	
<p><b>SECTION 205. ISSUANCE OF LICENSE; APPEAL.</b></p> <p>(a) Absent good cause, the department shall issue a license to an applicant if the applicant complies with this [article] and pays the costs of the investigation under Section 202(g) and the initial licensee fee under Section 202(a)(3) in an amount required by law or specified by the department by rule.</p> <p>(b) An applicant may appeal a denial of its application under Section 202 or 203, under [cite state administrative procedure act] not later than 30 days after:</p> <ol style="list-style-type: none"> <li>1. the department notifies the applicant of the denial; or</li> <li>2. the application is deemed denied.</li> </ol>	<p><b>§ 53-208.50. Issuance of license.</b></p> <p>...</p> <p>(b) The Commissioner may only approve an application for licensure when the Commissioner has determined that all of the following requirements have been satisfied or are reasonably likely to be satisfied within a reasonable time period as specified by the Commissioner in the order of approval:</p> <ol style="list-style-type: none"> <li>(1) The applicant has satisfied the requirements imposed by this Article;</li> <li>(2) The applicant's business will be conducted honestly, fairly, and in a manner commanding the confidence and trust of the community;</li> <li>(3) The applicant has demonstrated net worth necessary to satisfy the requirements in accordance with G.S. 53-208.46;</li> <li>(4) The applicant has obtained a surety bond in conformance with G.S. 53-208.47;</li> <li>(5) That neither the applicant nor any controlling person are identified on the Specially Designated Nationals and Blocked Persons List prepared by the United States</li> </ol>	<p>The Uniform Act provides that absent good cause, the regulatory body <i>shall</i> issue a license to a business that complies with the Uniform Act. In contrast, the MTA provides that the regulatory body <i>may</i> issue a license if the business, in addition to complying with the MTA, satisfies a list of several requirements.</p>

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	<p>Department of the Treasury or the United States Department of State subject to Presidential Executive Order No. 13224, Blocking Property and Prohibiting Transactions with Persons who Commit, Threaten to Commit, or Support Terrorism;</p> <p>(6) The controlling persons and key management personnel, as a group, have degrees of character, competence, and experience which command the confidence and trust of the community and justify the belief that the applicant will operate safely, soundly, and in compliance with the law;</p> <p>(7) The anticipated volume and nature of business projected in the application are reasonable and indicate a reasonable likelihood of safe and sound operation.</p> <p>(c) Licenses issued under this Article are perpetual and not assignable. Control of a licensee shall not be acquired through a stock purchase, merger, or other device without prior written consent of the Commissioner. The Commissioner shall not give written consent if the Commissioner finds that any of the grounds for denial, revocation, or suspension as set forth under G.S. 53-208.56 are applicable to the acquiring person.</p>	<p>The Uniform Act's license is annual, whereas the MTA's license is perpetual.</p>
<p><b>SECTION 206. RENEWAL OF LICENSE.</b></p> <p>(a) Subject to subsection (g), not later than 15 days before the anniversary date of issuance of its license under this [act], a licensee may apply for renewal of the license by:</p> <p>(1) paying a renewal fee [in an amount required by law of this state other than this [act] or specified by the department by rule]; and</p> <p>(2) submitting to the department a renewal report under subsection (b).</p> <p>(b) A renewal report required by subsection (a)(2) must be submitted in a form and medium prescribed by the department.</p>	<p><b>§ 53-208.53. Reporting.</b></p> <p>(a) Annual Report. – No later than 90 days after the end of the calendar year, licensees shall file an annual report in a form prescribed by the Commissioner through NMLS, which shall include:</p> <p>(1) A copy of its most recent audited consolidated annual financial statement, including balance sheet, statement of income or loss, statement of changes in shareholder's equity, if applicable, and statement of changes in financial position, or, in the case of a licensee that is a wholly owned subsidiary of another corporation, the consolidated audited annual financial statement of the parent corporation may be filed in lieu of the licensee's audited financial statement;</p>	<p>The Uniform Act requires a licensee to renew its license annually and to update its financial information and report any material change. Although the MTA's license is perpetual, the MTA similarly requires that a licensee annually report this information.</p>

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<p>The report must contain:</p> <p>(1) a copy of the licensee's most recent:</p> <p>(A) reviewed annual financial statement if the licensee's virtual-currency business activity in this state was \$[insert amount state uses for corporate activity auditing purposes] or less for the fiscal year ending before the anniversary date of issuance of its license under this [act]; or</p> <p>(B) audited annual financial statement if the licensee's virtual-currency business activity in this state amounted to more than \$[insert the figure state employs for corporate activity auditing purposes] for the fiscal year ending before the anniversary date;</p> <p>(2) if a person other than an individual has control of the licensee, a copy of the person's most recent:</p> <p>(A) reviewed annual financial statement if the person's gross revenue was \$[insert amount state uses for corporate activity auditing purposes] or less in the previous fiscal year, measured as of the anniversary date of issuance of its license under this [act]; or</p> <p>(B) audited consolidated annual financial statement if the person's gross revenue was more than \$[insert amount state uses for corporate activity auditing purposes] in the previous fiscal year, measured as of the anniversary date of issuance of its license under this [act];</p> <p>(3) a description of any:</p> <p>(A) material change in the financial condition of the licensee;</p> <p>(B) material litigation involving the licensee or an executive officer, or responsible individual of the</p>	<p>(2) The total amount of outstanding transmission obligations;</p> <p>(3) Any material changes to any of the information submitted by the licensee on its original application, which have not been previously reported to the Commissioner on any other report required to be filed under this Article;</p> <p>(4) Copies of bank statements and other documentation necessary to document the existence and quality of the licensee's permissible investments; and</p> <p>(5) A list of the branch offices at which business regulated by this Article is being conducted by either the licensee or its authorized delegates.</p> <p>(b) Quarterly Reports. – No later than 60 days after the calendar quarter has ended, licensees shall file a quarterly call report in a form prescribed by the Commissioner through NMLS, which shall at a minimum include:</p> <p>(1) The number and dollar volume of money transmission transactions in the State by activity type; and</p> <p>(2) The total amount of outstanding transmission obligations.</p> <p>(c) Other Reports of Condition. – A licensee shall submit to the Commissioner through the NMLS reports of condition and any other reports requested by the Commissioner in order to carry out the purposes of this Article.</p> <p>(d) Timely Reporting. – Failure to timely submit any reports required under this section is grounds for summary suspension pursuant to G.S. 53-208.57(d)(2).</p>	<p>Unlike the MTA, the Uniform Act allows a licensee whose virtual-currency business activity is below a certain threshold to report a <i>reviewed</i> annual financial statement, instead of an <i>audited</i> annual financial statement.</p> <p>Both the Uniform Act and the MTA require a licensee to provide a list of locations at which its business is being conducted.</p> <p>The MTA also requires quarterly reports.</p> <p>Both the Uniform Act and the MTA provide that failure to report is grounds for summary suspension of a license.</p>

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<p>licensee;</p> <p>(C) license suspension or revocation proceeding commenced, or other action taken, involving a license to conduct virtual-currency business activity issued by another state on which reciprocal licensing is based;</p> <p>(D) federal or state investigation involving the licensee; and</p> <p>(E) data security breach involving the licensee;</p> <p>(4) information or records required by Section 305 the licensee has not reported to the department;</p> <p>(5) the number of virtual-currency business activity transactions with or on behalf of residents for the period since, subject to subsection (g), the later of the date the license was issued or the date the last renewal report was submitted;</p> <p>(6) the:</p> <p>(A) amount of U.S. Dollar equivalent of virtual currency in the control of the licensee at, subject to subsection (g), the end of the last month that ends not later than 30 days before the date of the renewal report; and</p> <p>(B) total number of residents for whom the licensee had control of U.S. Dollar equivalent of virtual currency on that date;</p> <p>(7) evidence that the licensee continues to satisfy Section 502;</p> <p>(8) evidence that the licensee continues to satisfy Section 204;</p> <p>(9) a list of each location where the licensee operates its</p>		



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<p>virtual-currency business activity; and</p> <p>(10) the name, United States Postal Service address, and telephone number of each person that manages a server used by the licensee in conducting its virtual-currency business activity with or on behalf of a resident.</p> <p>(c) If a licensee does not timely comply with subsection (a), the department may use enforcement measures provided under [Article] 4. Notice or hearing is not required for a suspension or revocation of a license under this [act] for failure to pay a renewal fee or file a renewal report.</p> <p>(d) If the department suspends or revokes a license under this [act] for noncompliance with subsection (a), the department may end the suspension or rescind the revocation and notify the licensee of the action if, subject to subsection (g), not later than 20 days after the license was suspended or revoked, the licensee:</p> <p>(1) files a renewal report and pays a renewal fee; and</p> <p>(2) pays any penalty assessed under Section 404.</p> <p>(e) The department shall give prompt notice to a licensee of the lifting of a suspension or rescission of a revocation after the licensee complies with subsection (d).</p> <p>(f) Suspension or revocation of a license under this section does not invalidate a transfer or exchange of virtual currency for or on behalf of a resident made during the suspension or revocation and does not insulate the licensee from liability under this [act].</p> <p>(g) For good cause, the department may extend a period under this section.</p> <p>(h) The department shall review the renewal of a license issued under Section 203 to ensure that the state that issued the original license has not suspended, revoked, or limited the license.</p> <p>(i) A licensee that does not comply with this section shall cease</p>		

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<p>operations with or on behalf of a resident on or before the anniversary date of issuance of its license under this [act].</p> <p>(j) A licensee shall pay the reasonable and necessary costs of the department's investigation under this section.</p>		
<p><b>SECTION 207. REGISTRATION IN LIEU OF LICENSE.</b></p> <p>(a) A person whose volume of virtual-currency business activity in U.S. Dollar equivalent of virtual currency will not exceed \$35,000 annually may engage in virtual-currency business activity with or on behalf of a resident under a registration without first obtaining a license under this [act] if the person:</p> <p>(1) files with the department a notice in the form and medium prescribed by the department of its intention to engage in virtual-currency business activity with or on behalf of a resident;</p> <p>(2) provides the information for an investigation under Section 202;</p> <p>(3) states the anticipated virtual-currency business activity for its next fiscal quarter;</p> <p>(4) pays the department a registration fee in the amount [required by law of this state other than this [act] or specified by the department by rule];</p> <p>(5) if required to register with the Financial Crimes Enforcement Network of the United States Department of the Treasury as a money-service business, provides the department evidence of the registration;</p> <p>(6) provides evidence that the person has policies and procedures to comply with the Bank Secrecy Act, 31 U.S.C. Section 5311 et seq. [, as amended], and other applicable laws;</p> <p>(7) describes the source of funds and credit to be used by the</p>	None	<p>The Uniform Act allows a business whose virtual-currency business activity will not exceed \$35,000 annually to register with the regulatory body in lieu of licensure. The business must satisfy several requirements, including providing information for an investigation under Section 202, maintaining the minimum net worth and reserves under Section 204, and establishing procedures to comply with Articles 3, 5, and 6. The registration lasts two years.</p>

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<p>person to conduct virtual-currency business activity with or on behalf of a resident and provides evidence of and agrees to maintain the minimum net worth and reserves required by Section 204 and sufficient unencumbered reserves for winding down operations;</p> <p>(8) provides the department with evidence that the person has in place policies and procedures to comply with [Articles] 3, 5, and 6 and other provisions of this [act] designated by the department; and</p> <p>(9) provides the department with a copy of its most recent financial statement, whether reviewed or audited.</p> <p>(b) Before the virtual-currency business activity of a registrant with or on behalf of residents exceeds \$35,000 annually in U.S. Dollar equivalent of virtual currency, the registrant shall file an application for a license under this [act] and may continue to operate after the activity exceeds \$35,000 annually while its application for license is pending.</p> <p>(c) For good cause, the department may suspend or revoke a registration without a prior hearing or opportunity to be heard.</p> <p>(d) A registrant shall cease all virtual-currency business activity with or on behalf of residents:</p> <p>(1) if the department denies the registrant's application for a license under this [act], one day after the registrant receives notice in a record that the department has denied the application;</p> <p>(2) if the department suspends or revokes the registration, one day after the department sends notice of the suspension or revocation to the registrant in a record by a means reasonably selected for the notice to be received by the recipient in one day, to the address provided for receiving communications from the department;</p> <p>(3) if the virtual-currency business activity of the registrant</p>		

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<p>with or on behalf of residents exceeds \$35,000 annually in U.S. Dollar equivalent of virtual currency and the registrant has not filed an application for a license under this [act]; or</p> <p>(4) on the second anniversary date of the registration.</p>		
<p><b>SECTION 208. LICENSE OR REGISTRATION NOT ASSIGNABLE OR TRANSFERABLE.</b></p> <p>A license or registration under this [act] is not transferable or assignable.</p>	<p><b>§ 53-208.50. Issuance of license.</b></p> <p>...</p> <p>(c) Licenses issued under this Article are perpetual and not assignable. Control of a licensee shall not be acquired through a stock purchase, merger, or other device without prior written consent of the Commissioner. The Commissioner shall not give written consent if the Commissioner finds that any of the grounds for denial, revocation, or suspension as set forth under G.S. 53-208.56 are applicable to the acquiring person.</p>	<p>Both the Uniform Act and the MTA provide that a license or registration is not assignable.</p>
<p><b>SECTION 209. RULES AND GUIDANCE.</b></p> <p>The department may adopt rules to implement this [act] and issue guidance as appropriate.</p>	<p><b>§ 53-208.60. Rules.</b></p> <p>(a) The State Banking Commission may adopt rules necessary to implement this Article.</p> <p>(b) Pursuant to G.S. 53C-2-6(b), any person aggrieved by any rule or order of the Commissioner under this Act may appeal to the State Banking Commission for review upon providing notice in writing within 20 days after the act complained of is adopted, issued, or done. Notwithstanding any other provision of law, any aggrieved party to a decision of the State Banking Commission shall be entitled to petition for judicial review pursuant to G.S. 53C-2-6(b).</p>	<p>Both the Uniform Act and the MTA allow the regulatory body to adopt rules.</p>
<p><b>[ARTICLE] 3</b></p> <p><b>EXAMINATION; EXAMINATION FEES; DISCLOSURE OF INFORMATION OBTAINED DURING EXAMINATION</b></p> <p><b>SECTION 301. AUTHORITY TO CONDUCT EXAMINATION.</b></p>	<p><b>§ 53-208.55. Examination and investigation authority.</b></p> <p>(a) For purposes of initial licensure, suspension, conditioning, revocation, or termination, or general or specific inquiry, investigation, or examination to determine compliance with this Article, the Commissioner may access, receive, and use any books, accounts, records, files, documents, information, or</p>	<p>Both the Uniform Act and the MTA give the regulatory body the authority to conduct an examination of a licensee or registrant. However, the MTA discusses this authority in much greater detail and specifies that this authority extends to any</p>

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<p>(a) The department may conduct an annual examination of a licensee or registrant. For good cause, the department may conduct an additional examination. The department may examine a licensee or registrant without prior notice to the licensee or registrant.</p> <p>(b) A licensee or registrant shall pay the reasonable and necessary costs of an examination under this section.</p> <p>(c) Information obtained during an examination under this [Article] may be disclosed only as provided in Section 304.</p>	<p>evidence including:</p> <p>(1) Criminal, civil, and administrative history information;</p> <p>(2) Personal history and experience information;</p> <p>(3) Any other documents, information, or evidence the Commissioner deems relevant to the inquiry, investigation, or examination regardless of the location, possession, control, or custody of the documents, information, or evidence.</p> <p>(b) For purposes of investigating violations or complaints arising under this Article, or for the purposes of examination, the Commissioner may review, investigate, or examine any licensee, individual, or person subject to this Article in order to carry out the purposes of this Article. The Commissioner may interview the controlling persons, employees, independent contractors, delegates, third-party vendors, and customers of the licensee concerning the licensee's business. The Commissioner may direct, subpoena, or order the person to produce books, accounts, records, files, and any other documents the Commissioner deems relevant to the inquiry. Any investigation or examination that, in the opinion of the Commissioner, requires extraordinary review, investigation, or special examination shall be subject to the actual costs of the additional expenses and the hourly rate for the staff's time, to be determined annually by the State Banking Commission.</p> <p>(c) Each person subject to this Article shall make available to the Commissioner upon request the books and records relating to the operations of the licensee or person. No person subject to examination or investigation under this section may knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, or other information retained in any format. Each person subject to this Article shall also make available for interview by the Commissioner the controlling persons, employees, independent contractors, delegates, and third-party</p>	<p>person subject to the MTA.</p>

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	<p>vendors of the person concerning money transmission subject to this Article.</p> <p>(d) Each person subject to this Article shall make or compile such reports or prepare other information as may be directed or requested by the Commissioner in order to carry out the purposes of this section.</p> <p>(e) In making any examination or investigation authorized by this Article, the Commissioner may control access to any documents and records of the person under examination or investigation. The Commissioner may take possession of the documents and records, or place a person in exclusive charge of the documents and records in the place where they are usually kept. During the period of control, no person shall remove or attempt to remove any of the documents and records except pursuant to a court order or with consent of the Commissioner. Unless the Commissioner has reasonable grounds to believe the documents or records have been or are at risk of destruction, the person shall retain access as necessary to conduct its ordinary business.</p> <p>(f) In order to carry out the purposes of this section, the Commissioner may:</p> <ol style="list-style-type: none"> <li>(1) Enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, and records and related information obtained under this section;</li> <li>(2) Use, hire, contract, or employ analytical systems, methods, or software to examine or investigate any person subject to this Article;</li> <li>(3) Accept and rely on examination or investigation reports made by other government officials, within or without this State;</li> </ol>	



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	(4) Accept audit reports made by an independent certified public accountant or other qualified third-party auditor for any person subject to this Article and may incorporate the audit report in the report of examination or investigation.	
<p><b>SECTION 302. RECORDS.</b></p> <p>(a) A licensee or registrant shall maintain, for all virtual-currency business activity with or on behalf of a resident <b>five years</b> after the date of the activity, a record of:</p> <p>(1) each transaction of the licensee or registrant with or on behalf of the resident or for the licensee's or registrant's account in this state, including:</p> <p>(A) the identity of the resident;</p> <p>(B) the form of the transaction;</p> <p>(C) the amount, date, and payment instructions given by the resident; and</p> <p>(D) the account number, name, and United States Postal Service address of the resident, and, to the extent feasible, other parties to the transaction;</p> <p>(2) the aggregate number of transactions and aggregate value of transactions by the licensee or registrant with or on behalf of the resident and for the licensee's or registrant's account in this state, expressed in U.S. Dollar equivalent of virtual currency for the previous 12 calendar months;</p> <p>(3) each transaction in which the licensee or registrant exchanges one form of virtual currency for legal tender or another form of virtual currency with or on behalf of the resident;</p> <p>(4) <b>a general ledger posted at least monthly that lists all assets, liabilities, capital, income, and expenses of the</b></p>	<p><b>§ 53-208.52. Maintenance of records.</b></p> <p>(a) Each licensee shall maintain such books, accounts, and other records as the Commissioner may require for a period of <b>no less than three years</b> unless the Commissioner, by rule, prescribes otherwise for particular types of records. Such records shall be segregated from any other business in which the licensee is engaged and, at a minimum, include:</p> <p>(1) A record or records of each payment instrument sold.</p> <p>(2) <b>A general ledger containing all assets, liability, capital, income, and expense accounts, which general ledger shall be posted at least monthly.</b></p> <p>(3) Settlement sheets received from authorized delegates.</p> <p>(4) <b>Bank statements and bank reconciliation records.</b></p> <p>(5) Records of outstanding transmissions, payment instruments, and stored value.</p> <p>(6) Records of each payment instrument paid within the three-year period.</p> <p>(7) A list of the names and addresses of all of the licensee's proposed authorized delegates, if any, and a copy of each written agreement in conformance with G.S. 53-208.44(c)(1).</p> <p>(b) Maintenance of the documents required by this section in the form of any digital or electronic medium shall constitute compliance with this section provided records remain readily convertible into legible, tangible documents and shall be treated</p>	<p>Both the Uniform Act and the MTA require licensees and registrants to maintain similar financial records. The Uniform Act provides for a period of five years, whereas the MTA provides for a period of three years. The Uniform Act requires a record of each transaction, whereas the MTA requires a record of each payment instrument sold.</p>

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<p>licensee or registrant;</p> <p>(5) each business-call report the licensee or registrant is required to create or provide to the department or registry;</p> <p>(6) bank statements and bank reconciliation records for the licensee or registrant and the name, account number, and United States Postal Service address of each bank the licensee or registrant uses in the conduct of its virtual-currency business activity with or on behalf of the resident;</p> <p>(7) a report of any dispute with the resident; and</p> <p>(8) a report of any virtual-currency business activity transaction with or on behalf of a resident which the licensee or registrant was unable to complete.</p> <p>(b) A licensee or registrant shall maintain records required by subsection (a) in a form that enables the department to determine whether the licensee or registrant is in compliance with this [act], any court order, and law of this state other than this [act].</p> <p>(c) If a licensee or registrant maintains records outside this state that pertain to transactions with or on behalf of a resident, the licensee or registrant shall make the records available to the department not later than three days after request, or, on a determination of good cause by the department, at a later time.</p> <p>(d) All records maintained by a licensee or registrant are subject to inspection by the department.</p>	<p>as originals for the purposes of any examination or investigation conducted pursuant to this Article.</p> <p>(c) All records required to be maintained shall be secured against unauthorized access and damage and may be maintained at a location outside this State so long as they are made accessible to the Commissioner on seven days' written notice.</p> <p>(d) All records required to be maintained under this Article shall be prepared in accordance with generally accepted accounting principles, where applicable.</p> <p>(e) A licensee shall notify the Commissioner of any change in the location of its records within 10 days following such change.</p>	
<p><b>SECTION 303. RULES; COOPERATION; AND DATA-SHARING AUTHORITY.</b></p> <p>(a) Subject to Section 304 and law of this state other than this [act] concerning privacy, consumer financial privacy, data protection, privilege, and confidentiality, the department may cooperate, coordinate, jointly examine, consult, and share records and other information with the appropriate regulatory agency of another state, a self-regulatory organization, federal</p>	<p>None</p>	<p>The Uniform Act provides that a regulatory body may coordinate and share records with other regulatory bodies regarding the conduct of licensees and registrants. The Uniform Act requires the regulatory body to participate in a central depository for</p>

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<p>or state regulator of banking or non-depository providers, or a regulator of a jurisdiction outside the United States, concerning the affairs and conduct of a licensee or registrant in this state.</p> <p>(b) The department shall:</p> <ul style="list-style-type: none"> <li>(1) establish or participate in, with another state that enacts a law substantially similar to this [act], a central depository for filings required by law of this state other than this [act];</li> <li>(2) cooperate in developing and implementing uniform forms for applications and renewal reports and the conduct of joint administrative proceedings and civil actions;</li> <li>(3) formulate joint rules, forms, statements of policy, and guidance and interpretative opinions and releases; and</li> <li>(4) develop common systems and procedures.</li> </ul> <p>(c) The department may not establish or participate in a central commercial depository that contains nonpublic personally identifiable information which does not comply with Section 502(e)(5) or (8) of the Gramm-Leach-Bliley Act, 15 U.S.C. Section 6802(e)(5) or (8) [, as amended], or with the Federal Right to Financial Privacy Act, 18 U.S.C. Section 3401 et seq. [, as amended].</p> <p>(d) In deciding whether and how to cooperate, coordinate, jointly examine, consult, or share records and other information under subsection (a), the department shall consider:</p> <ul style="list-style-type: none"> <li>(1) maximizing effectiveness and uniformity of regulation, examination, implementation, and enforcement for the benefit of residents and licensees and registrants; and</li> <li>(2) minimizing burdens on licensees and registrants without adversely affecting protection for residents.</li> </ul>		<p>filings required by state law other than the Uniform Act, to cooperate in developing uniform forms, and to formulate joint rules with other regulatory bodies.</p>

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<p><b>SECTION 304. CONFIDENTIALITY.</b></p> <p>(a) Except as otherwise provided in subsection (b) or (c), information not contained in a report otherwise available to the public or reports obtained by the department from an applicant, licensee, or registrant, information contained in or related to an examination, investigation, or operating or condition report prepared by, on behalf of, or for the use of the department, and other financial and operating information, is not subject to disclosure under [insert citation to open records law of this state]. If the department determines the information or records are confidential under the open records law of a reciprocal-licensing state, the information or records may not be disclosed.</p> <p>(b) A trade secret of an applicant, a licensee, or a registrant is confidential and is not subject to disclosure under [insert citation to open records law of this state]. If the department determines a trade secret is confidential under the open records law of a reciprocal-licensing state, the trade secret may not be disclosed.</p> <p>(c) Subsection (a) does not prohibit disclosure of:</p> <ol style="list-style-type: none"> <li>(1) general information about a licensee's or registrant's virtual-currency business activity with or on behalf of a resident;</li> <li>(2) a list of persons licensed or registered under this [act]; or</li> <li>(3) aggregated financial data concerning licensees or registrants in this state.</li> </ol>	<p><b>§ 53-208.59. Confidentiality.</b></p> <p>(a) Notwithstanding any other provision of law, all information or reports obtained by the Commissioner from an applicant, licensee, or authorized delegate, whether obtained through reports, applications, examination, audits, investigation, or otherwise, including (i) all information contained in or related to examination, investigation, operating, or condition reports prepared by, on behalf of, or for the use of the Commissioner; and (ii) financial statements, balance sheets, or authorized delegate information are subject to confidential treatment as set forth under G.S. 53C-2-7.</p> <p>(b) The Commissioner is authorized to enter agreements or sharing arrangements with other governmental agencies or associations representing governmental agencies and may share otherwise confidential information pursuant to these written agreements, but only to the extent permitted by G.S. 53C-2-7(d). Information shared pursuant to the agreements authorized under this section shall retain any and all applicable privilege and related confidentiality protections provided by State or federal law.</p> <p>(c) Nothing in this section shall prohibit the Commissioner from releasing to the public a list of persons licensed under this Article or aggregated financial data on those licensees.</p> <p>...</p> <p><b>§ 53C-2-7. Official record.</b></p> <p>(a) The Commissioner shall keep a record in the OCOB of the Commissioner's official acts, rulings, and transactions that, except as otherwise provided, shall be open to inspection and copying by any person. The Commissioner may condition the provision of copies of records upon the payment by the person requesting the documents of an amount sufficient to cover the cost of retrieving, copying, and if requested, mailing the documents.</p>	<p>Both the Uniform Act and the MTA provide that information about a licensee or registrant obtained by the regulatory body is confidential. However, both statutes do not prohibit the disclosure of a list of licensees or registrants or aggregated financial data on licensees or registrants.</p> <p>The Uniform Act also prohibits the disclosure of information that is confidential under the law of a reciprocal-licensing state. The MTA, which incorporates G.S. 53C-2-7, prohibits the disclosure of information obtained by a regulatory agency of another state that is confidential under that state's law. <i>See</i> G.S. 53C-2-7(b)(10).</p>

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	<p>(b) Notwithstanding any laws to the contrary, the following records of the Commissioner shall be confidential and shall not be disclosed or be subject to discovery or public inspection:</p> <p>(1) Records compiled during or in connection with an examination, audit, or investigation of any person, including records relating to any application for licensure or otherwise to the conduct of business.</p> <p>(2) Records containing information compiled in preparation for or anticipation of or in the course of litigation, examination, audit, or investigation.</p> <p>(3) Records containing nonpublic personal information about a customer, whether in paper, electronic, or other form, that is maintained by or on behalf of the financial institution; provided, however, that every report made by a North Carolina financial institution, with respect to a transaction between it and an officer, director, or affiliate thereof, which report is required to be filed with the Commissioner pursuant to this Chapter, shall be filed with the Commissioner in a form prescribed by the Commissioner and shall be open to inspection and copying by any person.</p> <p>(4) Records containing information furnished in connection with an application bearing on the character, competency, or experience, or information about the personal finances of an existing or proposed organizer, officer, or director of a depository institution, federally chartered institution, trust institution, holding company, or any other person subject to the Commissioner's jurisdiction.</p> <p>(5) Records containing information about the character, competency, experience, or finances of the directors, officers, or other persons having control over a person giving notice or filing an application to engage in a control transaction pursuant to this Chapter.</p>	

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	<p>(6) Records containing information about the character, competency, or experience of the directors, executive officers, or other persons having control over any of the parties to a combination subject to the Commissioner's jurisdiction.</p> <p>(7) Records of North Carolina financial institutions in dissolution that have liquidated, that are under the Commissioner's supervisory control, or that are in receivership and that contain the names or other personal information of any customers of the institutions.</p> <p>(8) Records prepared by a compliance review committee or other committee of the board of directors of a North Carolina financial institution or established at the direction of such a board of directors that have been obtained by the Commissioner.</p> <p>(9) Records prepared during or as a result of an examination or investigation of any person by an agency of the United States, or jointly by the agency and the Commissioner, if the records would be confidential under federal law or regulation.</p> <p>(10) Records prepared during or as a result of an examination or investigation of any person by a regulatory agency with jurisdiction of a state other than this State or of a foreign country if the records would be confidential under that jurisdiction's law or regulations.</p> <p>(11) Records of information and reports submitted to federal regulatory agencies by any depository institution or trust institution, or its affiliates, holding company or its subsidiaries, or any other person subject to the Commissioner's jurisdiction, if the records would be confidential under federal law or regulation.</p> <p>(12) Records of complaints from the public received by the OCOB.</p>	



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	<p>(13) Any record that would disclose any information set forth in any of the confidential records referred to in this subsection.</p> <p>(c) For purposes of this section, "any person subject to the Commissioner's jurisdiction" includes any person who is licensed or registered or should be licensed or registered under this Chapter.</p> <p>(d) Notwithstanding the provisions of subsection (b) of this section, the Commissioner may, by written agreement with any state or federal law enforcement or regulatory agency, share with that agency any confidential record set out in subsection (b) of this section or any information contained therein, on the condition that such record or information shared shall be treated as confidential under the applicable laws and regulations governing the recipient agency.</p> <p>(e) Notwithstanding the provisions of subsection (b) of this section which limit discovery of confidential records held by the Commissioner, such records may be produced for discovery in a criminal or enforcement proceeding if both of the following occur:</p> <p>(1) After reviewing the discovery request, the court orders the Commissioner to submit the confidential records to the court for in camera review and the court finds that the interests of justice require that the documents be discoverable or admissible in evidence.</p> <p>(2) After making the finding provided by subdivision (1) of this subsection, the court enters a protective order restricting access and public distribution or any republication of the confidential materials requested.</p> <p>(f) Nothing in this section shall prohibit a bank, upon approval of the Commissioner, from disclosing to an insurance carrier, for the purpose of obtaining insurance coverage required by this</p>	<p>G.S. 53C-2-7(e) provides an exception in a criminal or enforcement proceeding to the general rule of confidentiality.</p>

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	Chapter, the bank's regulatory rating prepared by the OCOB; provided, however, that the insurance carrier must agree in writing to maintain the confidentiality of the information and not to disclose it in any manner whatsoever.	
<p><b>SECTION 305. INTERIM REPORT.</b></p> <p>(a) Each licensee and registrant shall file with the department a report of:</p> <p>(1) a material change in information in the application for a license under this act or a registration or the most recent renewal report of the licensee under this [act] or for the registrant;</p> <p>(2) a material change in the licensee's or registrant's business for the conduct of its virtual-currency business activity with or on behalf of a resident; and</p> <p>(3) a change of an executive officer, responsible individual, or person in control of the licensee or registrant.</p> <p>(b) Absent good cause, a report required by subsection (a) must be filed not later than 15 days after the change.</p>	<p><b>§ 53-208.54. Notice of Material Event.</b></p> <p>(a) Within 15 days of a change or acquisition of control of a licensee, the licensee shall provide notice of the event to the Commissioner through NMLS in writing and in a form prescribed by the Commissioner. The notice shall be accompanied by any information, data, and records required by the Commissioner.</p> <p>(b) Within 15 days of the occurrence of any one of the events listed below, a licensee shall file a written report with the Commissioner through NMLS describing the event and its expected impact on the licensee's activities in the State:</p> <p>(1) The filing for bankruptcy or reorganization by the licensee.</p> <p>(2) The institution of revocation or suspension proceedings against the licensee by any State or governmental authority with regard to the licensee's money transmission activities.</p> <p>(3) Any felony indictment of the licensee or any controlling person or key management personnel related to money transmission activities.</p> <p>(4) Any felony conviction of the licensee or any controlling person or key management personnel related to money transmission activities.</p> <p>(c) If the information contained in any document filed with the Commissioner or the NMLS is or becomes inaccurate or incomplete in any material respect, the licensee or applicant shall within 30 days file a correcting amendment to the information contained in the document.</p>	<p>Both the Uniform Act and the MTA provide that a licensee or registrant must provide notice of a change in control within 15 days. The Uniform Act also requires notice of a change of an executive officer or responsible individual. "Responsible individual" is a defined term.</p> <p>Both the Uniform Act and the MTA require a licensee or registrant to update the regulatory body if there has been a material change in information reported by the licensee or registrant.</p> <p>The Uniform Act requires an update if there has been a "material change in the licensee's or registrant's business". The Official Comment refers to the federal securities laws for guidance on what is "material". In contrast, the MTA specifies that a bankruptcy, disciplinary, or criminal proceeding is material.</p>

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<p><b>SECTION 306. CHANGE IN CONTROL OF LICENSEE OR REGISTRANT.</b></p> <p>(a) In this section, “proposed person to be in control” means the person that would control a licensee or registrant after a proposed transaction that would result in a change in control of the licensee or registrant.</p> <p>(b) The following rules apply in determining whether a person has control over a licensee or registrant:</p> <p>(1) There is a rebuttable presumption of control if the person’s voting power in the licensee or registrant constitutes or will constitute at least 25 percent of the total voting power of the licensee or registrant.</p> <p>(2) There is a rebuttable presumption of control if:</p> <p>(A) the person’s voting power in another person constitutes or will constitute at least 10 percent of the total voting power of the other person; and</p> <p>(B) the other person’s voting power in the licensee or registrant constitutes at least 25 percent of the total voting power of the licensee or registrant.</p> <p>(3) There is no presumption of control solely because an individual is an executive officer of the licensee or registrant.</p> <p>(c) At least 30 days before a proposed change in control of a licensee or registrant, the proposed person to be in control shall submit to the department in a record:</p> <p>(1) an application in a form and medium prescribed by the department;</p> <p>(2) the information and records that Section 202 would require if the proposed person to be in control already had control of the licensee;</p>	<p><b>§ 53-208.42. Definitions.</b></p> <p>For purposes of this Article, the following definitions apply:</p> <p>...</p> <p>(5) Control. – The power, directly or indirectly, to direct the management or policy of the licensee or person subject to this Article, whether through ownership of securities, by contract, or otherwise. Any person that (i) is a director, general partner, or executive officer; (ii) directly or indirectly has ownership of or the power to vote ten percent (10%) or more of a class of outstanding voting securities; (iii) in the case of a limited liability company, is a managing member; or (iv) in the case of a partnership, has the right to receive upon dissolution, or has contributed, ten percent (10%) or more of the capital, is presumed to control the licensee or person subject to this Article.</p> <p>...</p> <p><b>§ 53-208.50. Issuance of license.</b></p> <p>...</p> <p>(c) Licenses issued under this Article are perpetual and not assignable. Control of a licensee shall not be acquired through a stock purchase, merger, or other device without prior written consent of the Commissioner. The Commissioner shall not give written consent if the Commissioner finds that any of the grounds for denial, revocation, or suspension as set forth under G.S. 53-208.56 are applicable to the acquiring person.</p>	<p>The Uniform Act establishes two rebuttable presumptions of control of a licensee or registrant: (1) having at least 25% of the voting power of the licensee or registrant; or (2) having at least 10% of the voting power of a person who has at least 25% of the voting power of the licensee or registrant. The Uniform Act specifies that the presumption does not apply to an individual solely because the individual is an executive officer. In contrast, the MTA establishes a presumption that applies to a much wider group of persons, including an executive officer or a person who has at least 10% of the voting power of a class of securities.</p> <p>The Uniform Act requires the “proposed person to be in control” to submit an application to the regulatory body that includes either a license application or registration, depending on whether the controlled person is a licensee or a registrant. The MTA provides that the regulatory body must give its prior written consent to the acquisition of control of a licensee.</p>

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<p>(3) a license application under Section 202 by the proposed person to be in control;</p> <p>(4) in the case of a registrant, the information that Section 207 would require if the proposed person to be in control already had control of the registrant; and</p> <p>(5) in the case of a registration, a registration under Section 207 by the proposed person to be in control.</p> <p>(d) The department, in accordance with Section 202, shall approve, approve with conditions, or deny an application for a change in control of a licensee or registrant. The department, in a record, shall send notice of its decision to the licensee or registrant and the person that would be in control if the department had approved the change in control. If the department denies the application, the licensee or registrant shall abandon the proposed change in control or cease virtual-currency business activity with or on behalf of residents.</p> <p>(e) If the department applies a condition to approval of a change in control of a licensee or registrant and the department does not receive notice of the applicant's acceptance of the condition specified by the department not later than 31 days after the department sends notice of the condition, the application is deemed denied. If the application is deemed denied, the licensee or registrant shall abandon the proposed change in control or cease virtual-currency business activity with or on behalf of residents.</p> <p>(f) Submission in good faith of records required by subsection (c) relieves the proposed person to be in control from any obligation imposed by this section other than subsections (d), (e), and (h) until the department has acted on the application.</p> <p>(g) The department may revoke or modify a determination under subsection (d), after notice and opportunity to be heard, if, in its judgment, revocation or modification is consistent with this [act].</p>		

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<p>(h) If a change in control of a licensee or registrant requires approval of an agency of this state or another state with which this state has a reciprocity agreement and the action of the other agency conflicts with that of the department, the department shall confer with the other agency. If the proposed change in control cannot be completed because the conflict cannot be resolved, the licensee or registrant shall abandon the change in control or cease virtual-currency business activity with or on behalf of residents.</p>		
<p><b>SECTION 307. MERGER OR CONSOLIDATION BY LICENSEE OR REGISTRANT.</b></p> <p>(a) At least 30 days before a proposed merger or consolidation of a licensee or registrant with another person, the licensee or registrant shall submit to the department in a record:</p> <ul style="list-style-type: none"> <li>(1) an application in a form and medium prescribed by the department;</li> <li>(2) the plan of merger or consolidation in accordance with subsection (e);</li> <li>(3) in the case of a licensee, the information required by Section 202 concerning the person that would be the surviving entity in the proposed merger or consolidation; and</li> <li>(4) in the case of a registrant, the information required by Section 207 concerning the person that would be the surviving entity in the proposed merger or consolidation.</li> </ul> <p>(b) If a proposed merger or consolidation would change the control of a licensee or registrant, the licensee or registrant shall comply with Section 306 and this section.</p> <p>(c) The department, in accordance with Section 202, shall approve, conditionally approve, or deny an application for approval of a merger or consolidation of a licensee or registrant. The department, in a record, shall send notice of its decision to the licensee or registrant and the person that would be the</p>	<p><b>§ 53-208.50. Issuance of license.</b></p> <p>...</p> <p>(c) Licenses issued under this Article are perpetual and not assignable. <b>Control of a licensee shall not be acquired through a stock purchase, merger, or other device without prior written consent of the Commissioner.</b> The Commissioner shall not give written consent if the Commissioner finds that any of the grounds for denial, revocation, or suspension as set forth under G.S. 53-208.56 are applicable to the acquiring person.</p>	<p>The Uniform Act also requires that before a proposed merger or consolidation, a licensee or registrant must submit an application to the regulatory body that includes the plan of merger or consolidation and the information required by either a license application or a registration. This section also applies when the licensee or registrant acquires “substantially all the assets of a person”. <i>See</i> subsection (h) of this section. In contrast, the MTA contemplates only transactions where the licensee is being acquired, not where the licensee is the acquiring entity.</p>

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<p>surviving entity. If the department denies the application, the licensee or registrant shall abandon the merger or consolidation or cease virtual-currency business activity with or on behalf of residents.</p> <p>(d) The department may revoke or modify a determination under subsection (c), after notice and opportunity to be heard, if, in its judgment, revocation or modification is consistent with this [act].</p> <p>(e) A plan of merger or consolidation of a licensee or a registrant with another person must:</p> <ul style="list-style-type: none"> <li>(1) describe the effect of the proposed transaction on the licensee's or registrant's conduct of virtual-currency business activity with or on behalf of residents;</li> <li>(2) identify each person to be merged or consolidated and the person that would be the surviving entity; and</li> <li>(3) describe the terms and conditions of the merger or consolidation and the mode of carrying it into effect.</li> </ul> <p>(f) If a merger or consolidation of a licensee or registrant and another person requires approval of an agency of this state or another state with which this state has a reciprocity agreement and the action of the other agency conflicts with that of the department, the department shall confer with the other agency. If the proposed merger or consolidation cannot be completed because the conflict cannot be resolved, the licensee or registrant shall abandon the merger or consolidation or cease virtual-currency business activity with or on behalf of residents.</p> <p>(g) The department may condition approval of an application under subsection (a). If the department does not receive notice from the parties that the parties accept the department's condition not later than 31 days after the department sends notice in a record of the condition, the application is deemed denied. If the application is deemed denied, the licensee or registrant shall abandon the merger or consolidation or cease</p>		



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<p>virtual-currency business activity with or on behalf of residents.</p> <p>(h) If a licensee or registrant acquires substantially all the assets of a person, whether or not the person's license was approved by or registration was filed with the department, the transaction is subject to this section.</p> <p>(i) Submission in good faith of the records required by subsection (e) relieves the proposed surviving entity from any obligation imposed by this section, other than subsections (c), (f), and (g), until the department has acted on the application.</p>		
<p style="text-align: center;"><b>[ARTICLE] 4</b> <b>ENFORCEMENT</b></p> <p><b>SECTION 401. ENFORCEMENT MEASURE.</b></p> <p>In this [article], "enforcement measure" means an action to:</p> <p>(1) suspend or revoke a license or a registration under this [act];</p> <p>(2) order a person to cease and desist from doing virtual-currency business activity with or on behalf of a resident;</p> <p>(3) request the court to appoint a receiver for the assets of a person doing virtual-currency business activity with or on behalf of a resident;</p> <p>(4) request the court to issue temporary, preliminary, or permanent injunctive relief against a person doing virtual-currency business activity with or on behalf of a resident;</p> <p>(5) assess a penalty under Section 404;</p> <p>(6) recover on the security under Section 204 and initiate a plan to distribute the proceeds for the benefit of a resident injured by a violation of this [act] or law of this state other than this [act] which applies to virtual-currency business</p>	<p><b>§ 53-208.56. Licensure authority.</b></p> <p>The Commissioner may by order, deny, suspend, revoke, or refuse to issue a license under this Article, or may restrict or limit the manner in which a licensee or applicant engages in the business of money transmission, if the Commissioner finds both of the following:</p> <p>...</p>	<p>Both the Uniform Act and the MTA grant the regulatory body authority to suspend or revoke a license or registration and to restrict a licensee or registrant's business activity.</p>

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<p>activity with or on behalf of a resident; or</p> <p>(7) impose necessary or appropriate conditions on the conduct of virtual-currency business activity with or on behalf of a resident.</p>		
<p><b>SECTION 402. DEPARTMENT AUTHORITY TO USE ENFORCEMENT MEASURES.</b></p> <p>(a) The department may take an enforcement measure against a licensee, registrant, or person that is neither a licensee nor registrant but is engaging in virtual-currency business activity with or on behalf of a resident if:</p> <p>(1) the licensee, registrant, or person materially violates this [act], a rule adopted or order issued under this [act], or law of this state other than this [act] which applies to virtual-currency business activity of the violator with or on behalf of a resident;</p> <p>(2) the licensee, registrant, or person does not cooperate substantially with an examination or investigation by the department, fails to pay a fee, or fails to submit a report or documentation;</p> <p>(3) the licensee, registrant, or person, in the conduct of its virtual-currency business activity with or on behalf of a resident, engages in:</p> <p>(A) an unsafe or unsound act or practice;</p> <p>(B) an unfair or deceptive act or practice;</p> <p>(C) fraud or intentional misrepresentation;</p> <p>(D) another dishonest act; or</p> <p>(E) misappropriation of legal tender, virtual currency, or other value held by a fiduciary;</p>	<p><b>§ 53-208.51. Prohibited practices.</b></p> <p>No person required to be licensed under this Article shall do any of the following:</p> <p>(1) Fail to remit all money or monetary value received for transmission pursuant to G.S. 53-208.42(13)b., or give instructions committing equivalent money or monetary value to the person designated by the sender within 10 days after receipt by the licensee unless otherwise directed by the sender.</p> <p>(2) Fail to immediately notify the Commissioner in writing if the licensee dishonors or fails to satisfy any money transmission transaction within the 10 days following receipt for any reason other than direction by the sender.</p> <p>(3) Engage in the business of money transmission in the State under any name other than that under which it is organized or otherwise authorized to do business in the State.</p> <p>(4) Fail to comply with the Federal Bank Secrecy Act, 31 U.S.C. § 5311 et seq., and 31 C.F.R. Part 1022, including maintenance of active registration with the United States Department of Treasury Financial Crimes Enforcement Network.</p> <p>(5) Fail to comply with the Federal Electronic Funds Transfer Act, 12 U.S.C. § 1693 et seq., and Regulation E, 12 C.F.R. § 1005 et seq.</p>	<p>The Uniform Act allows the regulatory body to take an enforcement measure if a licensee or registrant <i>materially</i> violates the Uniform Act. The MTA allows the regulatory body to deny, revoke, suspend, or refuse to renew a license for <i>any</i> violation of the MTA so long as the order is in the public interest.</p> <p>Both the Uniform Act and the MTA allow the regulatory body to discipline a person if the person does not cooperate with an examination or investigation; engages in an unsafe or unsound act, an unfair or deceptive act, or fraud or intentional misrepresentation; is the subject of an order within the past five years entered by a federal or state agency with jurisdiction over money transmission; is convicted of a crime involving fraud or felonious activity; becomes insolvent; or makes a material misrepresentation to the regulatory body.</p>

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<p>(4) an agency of the United States or another state takes an action against the licensee, registrant, or person which would constitute an enforcement measure if the department had taken the action;</p> <p>(5) the licensee, registrant, or person is convicted of a crime related to its virtual-currency business activity with or on behalf of a resident or involving fraud or felonious activity that, as determined by the department, makes the licensee, registrant, or person unsuitable to engage in virtual-currency business activity; or</p> <p>(6) the licensee, registrant, or person:</p> <p>(A) becomes insolvent;</p> <p>(B) makes a general assignment for the benefit of its creditors;</p> <p>(C) becomes the debtor, alleged debtor, respondent, or person in a similar capacity in a case or other proceeding under any bankruptcy, reorganization, arrangement, readjustment, insolvency, receivership, dissolution, liquidation, or similar law, and does not obtain from the court, within a reasonable time, confirmation of a plan or dismissal of the case or proceeding; or</p> <p>(D) applies for or permits the appointment of a receiver, trustee, or other agent of a court for itself or for a substantial part of its assets; or</p> <p>(7) the licensee, registrant, or person makes a material misrepresentation to the department.</p> <p>(b) On application and for good cause, the department may:</p> <p>(1) extend the due date for filing a document or report under subsection (a)(2); or</p> <p>(2) waive to the extent warranted by circumstances, such as</p>	<p>(6) Fail to safeguard identifying information obtained in the course of money transmission and otherwise comply with the requirements set forth under G.S. 75-60 et seq.</p> <p>(7) Fail to comply with applicable State and federal laws and regulations related to the business of money transmission.</p> <p>(8) Use or cause to be published or disseminated any advertising communication which contains any false, misleading, or deceptive statement or representation.</p> <p>(9) Engage in unfair, deceptive, or fraudulent practices.</p> <p>...</p> <p><b>§ 53-208.56. Licensure authority.</b></p> <p>The Commissioner may by order, deny, suspend, revoke, or refuse to issue a license under this Article, or may restrict or limit the manner in which a licensee or applicant engages in the business of money transmission, if the Commissioner finds both of the following:</p> <p>(1) That the order is in the public interest; and</p> <p>(2) Any of the following circumstances apply:</p> <p>a. Any fact or condition exists that, if it had existed at the time of application, would have been grounds for denial;</p> <p>b. The licensee or applicant has filed any application, report, or other document with the Commissioner containing statements that, in light of the circumstances in which they were made, were false or misleading with respect to a material fact;</p> <p>c. The licensee or applicant fails at any time to meet the requirements of G.S. 53-208.46, 53-208.47, or 53-208.48;</p>	<p>The Uniform Act allows the regulatory body to waive an enforcement measure in the case of a bona fide error</p>

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<p>a bona fide error notwithstanding reasonable procedures designed to prevent error, an enforcement measure under subsection (a) if the department determines that the waiver will not adversely affect the likelihood of compliance with this [act].</p> <p>(c) In an enforcement action related to operating without a license under this [act] or registration in this state, it is a defense to the action that the person has in effect a customer-identification program reasonably designed to identify whether a customer is a resident, which failed to identify the particular customer as a resident.</p> <p>(d) A proceeding under this [act] is subject to the [insert citation to state's administrative procedure act].</p>	<p>d. A controlling person or key management personnel of the licensee or applicant has been convicted of:</p> <ol style="list-style-type: none"> <li>1. A misdemeanor in the last 10 years involving fraud, money laundering, theft or wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or conspiracy to commit any of these offenses or involving any financial service or financial service-related business; or</li> <li>2. Any felony in the last seven years.</li> </ol> <p>e. The licensee or applicant has violated or failed to comply with any provision of this Article, rule issued pursuant to this Article, or order of the Commissioner;</p> <p>f. The licensee has conducted its business in an unsafe or unsound manner;</p> <p>g. The licensee or applicant is insolvent, has suspended payment of its obligations, has made an assignment for the benefit of its creditors, or has admitted in writing its inability to pay its debts as they become due;</p> <p>h. The licensee fails to respond to and cooperate fully with notices from the Commissioner or the Commissioner's designee related to the scheduling and conducting of an examination or investigation pursuant to § 53-208.55;</p> <p>i. The licensee or applicant fails to respond to inquiries from the Commissioner or the Commissioner's designee regarding any complaints filed, which allege or involve violation of this Article;</p> <p>j. The licensee fails to make any report required by this Article;</p>	<p>notwithstanding reasonable procedures designed to prevent error.</p>

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	<p>k. The licensee or applicant is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the money transmission business; or</p> <p>l. The licensee or applicant is the subject of an order entered within the past five years by the authority of any state or federal agency with jurisdiction over the business of money transmission.</p> <p>...</p> <p><b>§ 53-208.57. Disciplinary authority.</b></p> <p>...</p> <p>(e) When a licensee is subject to disciplinary action under this Article, the licensee, with the consent and approval of the Commissioner, may surrender the license and all the rights and privileges pertaining to it. A person who surrenders a license shall not be eligible for or submit any application for licensure under this Article during any period specified by the Commissioner.</p> <p>...</p> <p>(g) The requirements of this Article apply to any person who seeks to avoid its application by any device, subterfuge, or pretense whatsoever, including structuring a transaction in a manner to avoid classification of the transaction as money transmission.</p> <p>....</p>	<p>The MTA provides that a licensee, with the consent and approval of the regulatory body, may surrender its license. The MTA also specifies that it applies to any person who seeks to avoid its application by any device, subterfuge, or pretense.</p>
<p><b>[SECTION 403. NOTICE AND OPPORTUNITY FOR HEARING.</b></p> <p>(a) Except as otherwise provided in subsection (b), the department may take an enforcement measure only after notice</p>	<p><b>§ 53-208.57. Disciplinary authority.</b></p> <p>(a) Unless otherwise provided, all administrative actions and hearings conducted pursuant to this Article shall proceed in accordance with Article 3A of Chapter 150B of the General</p>	<p>Both the Uniform Act and the MTA, which incorporates by reference Article 3A of Chapter 150B of the General Statutes, generally require notice and an</p>

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<p>and opportunity for a hearing appropriate in the circumstances.</p> <p>(b) The department may take an enforcement measure other than the imposition of a civil penalty under Section 404:</p> <p>(1) without notice if the circumstances require action before notice can be given;</p> <p>(2) after notice and without a prior hearing if the circumstances require action before a hearing can be held; or</p> <p>(3) after notice and without a hearing if the person conducting virtual-currency business activity with or on behalf of a resident does not timely request a hearing.</p> <p>(c) If the department takes action under subsection (b)(1) or (2), the person subject to the enforcement measure has the right to an expedited post-action hearing by the department unless the person has waived the hearing.]</p>	<p>Statutes.</p> <p>(b) Upon issuance of any summary order permitted under this Article the Commissioner shall promptly notify the person subject to the order that the order has been entered and the reasons for the order. Within 20 days of receiving notice of the order, the person subject to the order may request in writing a hearing before the Commissioner. Upon receipt of such a request, the Commissioner shall calendar a hearing within 15 days. If a licensee does not request a hearing, the order will remain in effect unless it is modified or vacated by the Commissioner.</p> <p>...</p> <p>(d) In addition to the summary suspension procedures authorized by G.S. 150B-3(c), if the Commissioner has reason to believe that a licensee or person subject to this Article may have violated or failed to comply with any provision of this Article and has reason to believe that such violation or failure to comply presents an imminent threat to the public, the Commissioner may:</p> <p>(1) Summarily order the licensee or person subject to this Article to cease and desist from any harmful activities or violations of this Article;</p> <p>(2) Summarily suspend the license of a licensee under this Article.</p> <p>...</p> <p>(f) If it appears to the Commissioner that any person has committed or is about to commit a violation of any provision of this Article or of any rule or order of the Commission, the Commission may apply to Wake County Superior Court for an order enjoining the person from violating or continuing to violate this Article or any rule, regulation, or order and for</p>	<p>opportunity for a hearing. However, if the circumstances require, both statutes allow the regulatory body to summarily suspend a license or registration or summarily order a licensee or registrant to cease and desist from harmful activities. Both statutes give a licensee or registrant the right to a hearing after entry of the summary order.</p> <p>The MTA also allows the regulatory body to seek an injunction from the Wake County Superior Court.</p>



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	<p>injunctive or such other relief as the nature of the case may require.</p> <p>...</p> <p><b>§ 150B-3. Special provisions on licensing.</b></p> <p>...</p> <p>(c) If the agency finds that the public health, safety, or welfare requires emergency action and incorporates this finding in its order, summary suspension of a license or occupational license may be ordered effective on the date specified in the order or on service of the certified copy of the order at the last known address of the licensee, whichever is later, and effective during the proceedings. The proceedings shall be promptly commenced and determined.</p> <p>...</p> <p style="text-align: center;"><b>ARTICLE 3A.</b> <b>OTHER ADMINISTRATIVE HEARINGS.</b></p> <p><b>§ 150B-38. Scope; hearing required; notice; venue.</b></p> <p>...</p> <p>(b) Prior to any agency action in a contested case, the agency shall give the parties in the case an opportunity for a hearing without undue delay and notice not less than 15 days before the hearing. Notice to the parties shall include:</p> <p>....</p>	
<p><b>SECTION 404. CIVIL PENALTY.</b></p> <p>(a) If a person other than a licensee or registrant engages in virtual-currency business activity with or on behalf of a resident in violation of this [act], the department may assess a civil penalty against the person in an amount not to exceed \$[50,000]</p>	<p><b>§ 53-208.57. Disciplinary authority.</b></p> <p>...</p> <p>(c) The Commissioner may by order:</p>	<p>The Uniform Act allows for a civil penalty of up to \$50,000 for each day of violation if a person engages in virtual-currency business activity without being licensed,</p>

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<p>for each day of violation.</p> <p>(b) If a licensee or registrant materially violates a provision of this [act], the department may assess a civil penalty in an amount not to exceed \$[10,000] for each day of violation.</p> <p>(c) A civil penalty under this section continues to accrue until the earlier of:</p> <ul style="list-style-type: none"> <li>(1) the date the violation ceases; or</li> <li>(2) a date specified by the department.</li> </ul>	<p>(1) Impose a civil money penalty upon any person required to be licensed under this Article for any violation of or failure to comply with this Article or any order of the Commissioner in an amount specified by the Commissioner, not to exceed five thousand dollars (\$5,000) for each violation or, in the case of a continuing violation, one thousand dollars (\$1,000) for each day that the violation continues. Each violation of or failure to comply with this Article shall be a separate and distinct violation. All civil money penalties collected under this Article shall be paid to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.</p> <p>(2) Require that any person required to be licensed under this Article to disgorge and pay to the sender any amounts that were not remitted or refunded in violation of G.S. 53-208.51(1).</p> <p>...</p> <p><b>§ 53-208.58. Criminal penalties.</b></p> <p>(a) Any person who knowingly and willfully violates any provision of this Article for which a penalty is not specifically provided is guilty of a Class 1 misdemeanor.</p> <p>(b) Any person who knowingly and willfully makes a material, false statement in any document filed or required to be filed under this Article with the intent to deceive the recipient of the document is guilty of a Class 1 misdemeanor.</p> <p>(c) Any person who knowingly and willfully engages in the business of money transmission without a license as provided herein shall be guilty of a Class 1 misdemeanor.</p>	<p>registered, or exempted.</p> <p>The Uniform Act allows for a civil penalty of up to \$10,000 for each day of a <i>material</i> violation. In contrast, the MTA allows for a civil penalty of up to \$1,000 for each day of <i>any</i> continuing violation, or \$5,000 for each violation.</p> <p>The MTA also allows the regulatory body to require a person to disgorge and pay to the sender any amounts that were not remitted or refunded.</p> <p>The Uniform Act does not contain any criminal penalties. In contrast, the MTA establishes three Class 1 misdemeanors for certain violations of the MTA.</p>
<p><b>SECTION 405. EFFECTIVE PERIOD OF REVOCATION, SUSPENSION, OR CEASE AND DESIST ORDER.</b></p> <p>(a) Revocation of a license under this [act] is effective against a licensee one day after the department sends notice in a record of</p>	<p><b>§ 150B-3. Special provisions on licensing.</b></p> <p>...</p> <p>(c) If the agency finds that the public health, safety, or welfare requires emergency action and incorporates this finding in its</p>	<p>The Uniform Act provides that the revocation of a license, the suspension of a license or registration, or an order to cease and desist is effective one day after the regulatory body sends</p>

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<p>the revocation to the licensee, by a means reasonably selected for the notice to be received by the recipient in one day, to the address provided for receiving communications from the department.</p> <p>(b) Suspension of a license under this [act], suspension of a registration, or an order to cease and desist is effective against a licensee, registrant, or other person one day after the department sends notice in a record of the suspension or order to the licensee, registrant, or other person, by a means reasonably selected for the notice to be received by the recipient in one day, to the address provided for receiving communications from the department or, if no address is provided, to the recipient's last known address. A suspension or order to cease and desist remains in effect until the earliest of:</p> <ul style="list-style-type: none"> <li>(1) entry of an order by the department under the [state administrative procedure act] setting aside or limiting the suspension or order;</li> <li>(2) entry of a court order setting aside or limiting the suspension or order to cease and desist; or</li> <li>(3) a date specified by the department.</li> </ul> <p>(c) If, without reason to know of the department's notice sent under subsection (a) or (b), a licensee, registrant, or other person does not comply in accordance with the notice until the notice is actually received at the address provided, the department may consider the delay in compliance in imposing a sanction for the failure.</p>	<p>order, summary suspension of a license or occupational license may be ordered effective on the date specified in the order or on service of the certified copy of the order at the last known address of the licensee, whichever is later, and effective during the proceedings. The proceedings shall be promptly commenced and determined.</p> <p>....</p>	<p>notice to the licensee or registrant if the notice is sent by a means reasonably selected for the notice to be received in one day.</p> <p>G.S. 150B-3, which the MTA incorporates by reference, provides that the summary suspension of a license is effective on the date specified in the order or when the order is served upon the licensee, whichever is later.</p>
<p><b>SECTION 406. CONSENT ORDER.</b></p> <p>The department may enter into a consent order with a person regarding an enforcement measure. The order may provide that it does not constitute an admission of fact by a party.</p>	<p><b>§ 53-208.57. Disciplinary authority.</b></p> <p>...</p> <p>(h) The Commissioner, in the exercise of reasonable judgment, may compromise, settle, and collect civil penalties with any person for violations of any provision of this Article, or of any</p>	<p>Both the Uniform Act and the MTA allow the regulatory body to settle with a person on the issue of civil penalties.</p>

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<p><b>SECTION 407. SCOPE OF RIGHT OF ACTION.</b></p> <p>(a) Except as otherwise provided in this section, a person does not have a right of action for violation of this [act].</p> <p>(b) The department may bring an action for restitution on behalf of a resident if the department proves economic injury due to a violation of this [act].</p> <p>(c) This section does not preclude an action by a resident to enforce rights under Section 502 or law of this state other than this [act].</p>	<p>rule, regulation, or order issued or promulgated pursuant to this Article.</p> <p><b>§ 53-208.47. Surety bond.</b></p> <p>...</p> <p>(e) The aggregate liability of the surety in no event shall exceed the principal sum of the bond. Claimants against the licensee may themselves bring suit directly on the security bond, or the Commissioner may bring suit on behalf of claimants, either in one action or in successive actions.</p> <p>....</p>	<p>The Uniform Act specifically provides that a person does not have a private right of action under the Uniform Act, except to enforce its rights under Section 502, which is based on U.C.C. Sections 8-503 and 8-504. The Uniform Act allows the regulatory body to bring an action for restitution on behalf of a person.</p> <p>The MTA allows a person to sue directly on the business's surety bond. The MTA also allows the regulatory body to sue on the surety bond on the person's behalf.</p>
<p><b>[ARTICLE] 5</b></p> <p><b>DISCLOSURES AND OTHER PROTECTIONS FOR RESIDENTS</b></p> <p><b>SECTION 501. REQUIRED DISCLOSURES.</b></p> <p>(a) A licensee or registrant shall provide to a resident who uses the licensee's or registrant's products or service the disclosures required by subsection (b) and any additional disclosure the department by rule determines reasonably necessary for the protection of residents. The department shall determine by rule the time and form required for disclosure. A disclosure required by this section must be made separately from any other information provided by the licensee or registrant and in a clear and conspicuous manner in a record the resident may keep. A licensee or registrant may propose for the department's approval alternate disclosures as more appropriate for its virtual-currency business activity with or on behalf of residents.</p> <p>(b) Before establishing a relationship with a resident, a licensee</p>	<p>None</p>	<p>The Uniform Act requires a licensee or registrant to provide several disclosures to customers in a clear and conspicuous manner. Some of the disclosures include the licensee or registrant's schedule of fees and charges, whether the product or service is covered by a form of insurance, a description of liability for an unauthorized, mistaken, or accidental transfer or exchange, and whether the customer has a right to stop a transfer.</p>

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<p>or registrant shall disclose, to the extent applicable to the virtual-currency business activity the licensee or registrant will undertake with the resident:</p> <p>(1) a schedule of fees and charges the licensee or registrant may assess, the manner by which fees and charges will be calculated if they are not set in advance and disclosed, and the timing of the fees and charges;</p> <p>(2) whether the product or service provided by the licensee or registrant is covered by:</p> <p>(A) a form of insurance or is otherwise guaranteed against loss by an agency of the United States:</p> <p>(i) up to the full U.S. Dollar equivalent of virtual currency placed under the control of or purchased from the licensee or registrant as of the date of the placement or purchase, including the maximum amount provided by insurance under the Federal Deposit Insurance Corporation or otherwise available from the Securities Investor Protection Corporation; or</p> <p>(ii) if not provided at the full U.S. Dollar equivalent of virtual currency placed under the control of or purchased from the licensee or registrant, the maximum amount of coverage for each resident expressed in the U.S. Dollar equivalent of the virtual currency; or</p> <p>(B) private insurance against theft or loss, including cyber theft or theft by other means;</p> <p>(3) the irrevocability of a transfer or exchange and any exception to irrevocability;</p> <p>(4) a description of:</p>		

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<p>(A) liability for an unauthorized, mistaken, or accidental transfer or exchange;</p> <p>(B) the resident's responsibility to provide notice to the licensee or registrant of the transfer or exchange;</p> <p>(C) the basis for any recovery by the resident from the licensee or registrant;</p> <p>(D) general error-resolution rights applicable to the transfer or exchange; and</p> <p>(E) the method for the resident to update the resident's contact information with the licensee or registrant;</p> <p>(5) that the date or time when the transfer or exchange is made and the resident's account is debited may differ from the date or time when the resident initiates the instruction to make the transfer or exchange;</p> <p>(6) whether the resident has a right to stop a pre-authorized payment or revoke authorization for a transfer and the procedure to initiate a stop-payment order or revoke authorization for a subsequent transfer;</p> <p>(7) the resident's right to receive a receipt, trade ticket, or other evidence of the transfer or exchange;</p> <p>(8) the resident's right to at least 30 days' prior notice of a change in the licensee's or registrant's fee schedule, other terms and conditions of operating its virtual-currency business activity with the resident and the policies applicable to the resident's account; and</p> <p>(9) that virtual currency is not legal tender.</p> <p>(c) Except as otherwise provided in subsection (d), at the conclusion of a virtual-currency transaction with or on behalf of a resident, a licensee or registrant shall provide the resident a</p>		<p>The Uniform Act also requires the licensee or registrant to provide a confirmation of the</p>



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<p>confirmation in a record which contains:</p> <p>(1) the name and contact information of the licensee or registrant, including information the resident may need to ask a question or file a complaint;</p> <p>(2) the type, value, date, precise time, and amount of the transaction; and</p> <p>(3) the fee charged for the transaction, including any charge for conversion of virtual currency to legal tender, bank credit, or other virtual currency.</p> <p>(d) If a licensee or registrant discloses that it will provide a daily confirmation in the initial disclosure under subsection (c), the licensee or registrant may elect to provide a single, daily confirmation for all transactions with or on behalf of a resident on that day instead of a per-transaction confirmation.</p>		customer's transactions.
<p><b>SECTION 502. PROPERTY INTERESTS AND ENTITLEMENTS TO VIRTUAL CURRENCY.</b></p> <p>(a) A licensee or registrant that has control of virtual currency for one or more persons shall maintain in its control an amount of each type of virtual currency sufficient to satisfy the aggregate entitlements of the persons to the type of virtual currency.</p> <p>(b) If a licensee or registrant violates subsection (a), the property interests of the persons in the virtual currency are pro rata property interests in the type of virtual currency to which the persons are entitled, without regard to the time the persons became entitled to the virtual currency or the licensee or registrant obtained control of the virtual currency.</p> <p>(c) The virtual currency referred to in this section is:</p> <p>(1) held for the persons entitled to the virtual currency;</p> <p>(2) not property of the licensee or registrant; and</p>	<p><b>§ 53-208.47. Surety bond.</b></p> <p>...</p> <p>(i) The surety bond proceeds and any cash or other collateral posted as security by a licensee shall be deemed by operation of law to be held in trust for the benefit of the purchasers and holders of the licensee's outstanding payment instruments, stored value obligations, and money transmissions and to the State in the event of the bankruptcy of the licensee.</p> <p><b>§ 53-208.48. Permissible investments and statutory trust.</b></p> <p>(a) Each licensee under this Article shall possess at all times unencumbered permissible investments having an aggregate market value, calculated in accordance with generally accepted accounting principles, of not less than the aggregate face amount of all outstanding transmission obligations. This requirement may be waived by the Commissioner if the dollar volume of a licensee's outstanding transmission obligations does not exceed</p>	<p>The Uniform Act provides that in the event a licensee or registrant fails to maintain enough virtual currency to satisfy the aggregate entitlements of its customers, the customers have pro rata property interests in the virtual currency. The virtual currency is also not subject to the claims of the licensee or registrant's creditors. This section is based on U.C.C. Sections 8-503 and 8-504.</p> <p>In contrast, the MTA requires a licensee to have a surety bond (or a substitute in cash or certain securities) and provides that the surety bond proceeds are held in trust for the licensee's customers. The MTA</p>

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(3) not subject to the claims of creditors of the licensee or registrant.	<p>the bond or other security devices posted by the licensee pursuant to G.S. 53-208.47.</p> <p>(b) Permissible investments, even if commingled with other assets of the licensee, shall be deemed by operation of law to be held in trust for the benefit of the purchasers and holders of the licensee's outstanding payment instruments and stored value obligations in the event of the bankruptcy of the licensee.</p>	<p>also requires that a licensee have unencumbered permissible investments of not less than the amount of all outstanding transmission obligations and provides that these investments are held in trust for the customers.</p> <p>***The Official Comment provides, in part: "To clarify the rights of persons that place their virtual currency under the control of virtual-currency businesses and of the virtual-currency businesses themselves, the Uniform Law Commission is developing an act that will provide, when approved and enacted, a substitute for Section 502 of this act that instead adopts UCC Article 8's more balanced approach to this matter. This act is expected to be ready for enactment in 2018."***</p>
<p style="text-align: center;"><b>[ARTICLE] 6</b> <b>POLICIES AND PROCEDURES</b></p> <p><b>SECTION 601. MANDATED COMPLIANCE PROGRAMS AND MONITORING.</b></p> <p>(a) An applicant, before submitting an application, and registrant, before registering, shall create and, during licensure or registration, maintain in a record policies and procedures for:</p> <p>(1) an information-security and operational-security program;</p>	<p><b>§ 53-208.45. License application.</b></p> <p>(a) Applications under this Article shall be filed through the NMLS in a form acceptable to the Commissioner. To be considered complete, all applications shall be verified by oath or affirmation of the applicant or a designee thereof and shall contain:</p> <p>...</p> <p>(8) A copy of the applicant's policies and procedures, including the anti-money laundering compliance program.</p>	<p>The Uniform Act requires a licensee or registrant to maintain in a record policies and procedures for an information-security and operational-security (or cybersecurity) program, a business-continuity program, a disaster-recovery program, an anti-fraud program, an anti-money laundering program, a program to prevent funding of</p>

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<p>(2) a business-continuity program;</p> <p>(3) a disaster-recovery program;</p> <p>(4) an anti-fraud program;</p> <p>(5) <b>an anti-money-laundering program;</b></p> <p>(6) a program to prevent funding of terrorist activity; and</p> <p>(7) a program designed to:</p> <p style="padding-left: 40px;">(A) ensure compliance with this [act], law of this state other than this [act], and federal law, which are relevant to the virtual-currency business activity contemplated by the licensee or registrant with or on behalf of residents; and</p> <p style="padding-left: 40px;">(B) assist the licensee or registrant in achieving the purposes of law of this state other than this [act] and federal law if violation of that law has a remedy under this [act].</p> <p>(b) Each policy required by subsection (a) must be in a record and designed to be adequate for a licensee's or registrant's contemplated virtual-currency business activity with or on behalf of residents, considering the circumstances of all participants and the safe operation of the activity. Each policy and implementing procedure must be compatible with other policies and the procedures implementing them and not conflict with policies or procedures applicable to the licensee or registrant under law of this state other than this [act]. A policy and implementing procedure may be one in existence in the licensee's or registrant's virtual-currency business activity with or on behalf of residents.</p> <p>(c) A licensee's or registrant's policy for detecting fraud must include:</p>	<p>(9) A detailed description of the applicant's internal business controls, including <b>controls specific to information technology and data integrity.</b></p> <p>....</p>	<p>terrorist activity, and a compliance program.</p> <p>The MTA requires that a licensee provide in its license application a copy of its anti-money laundering program and a description of its internal business controls, including controls specific to information technology and data integrity.</p>

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<p>(1) identification and assessment of the material risks of its virtual-currency business activity related to fraud;</p> <p>(2) protection against any material risk related to fraud identified by the department or the licensee or registrant; and</p> <p>(3) periodic evaluation and revision of the anti-fraud procedure.</p> <p>(d) A licensee's or registrant's policy for preventing money laundering and financing of terrorist activity must include:</p> <p>(1) identification and assessment of the material risks of its virtual-currency business activity related to money laundering and financing of terrorist activity;</p> <p>(2) procedures, in accordance with federal law or guidance published by federal agencies responsible for enforcing federal law, pertaining to money laundering and financing of terrorist activity; and</p> <p>(3) filing reports under the Bank Secrecy Act, 31 U.S.C. Section 5311 et seq. [, as amended], or 31 C.F.R. Part X [, as amended], and other federal or state laws pertaining to the prevention or detection of money laundering or financing of terrorist activity.</p> <p>(e) A licensee's or registrant's information-security and operational-security policy must include reasonable and appropriate administrative, physical, and technical safeguards to protect the confidentiality, integrity, and availability of any non-public personal information or virtual currency it receives, maintains, or transmits.</p> <p>(f) A licensee or registrant is not required to file with the department a copy of a report it makes to a federal authority unless the department specifically requires filing.</p> <p>(g) A licensee's or registrant's protection policy under</p>		

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<p>subsection (e) for residents must include:</p> <p>(1) any action or system of records required to comply with this [act] and law of this state other than this [act] applicable to the licensee or registrant with respect to virtual-currency business activity with or on behalf of a resident;</p> <p>(2) a procedure for resolving disputes between the licensee or registrant and a resident;</p> <p>(3) a procedure for a resident to report an unauthorized, mistaken, or accidental virtual-currency business activity transaction; and</p> <p>(4) a procedure for a resident to file a complaint with the licensee or registrant and for the resolution of the complaint in a fair and timely manner with notice to the resident as soon as reasonably practical of the resolution and the reasons for the resolution.</p> <p>(h) After the policies and procedures required under this section are created and approved by the department and the licensee or registrant, the licensee or registrant shall engage a responsible individual with adequate authority and experience to monitor each policy and procedure, publicize it as appropriate, recommend changes as desirable, and enforce it.</p> <p>(i) A licensee or registrant may:</p> <p>(1) request advice from the department as to compliance with this section; and</p> <p>(2) with the department's approval, outsource functions, other than compliance, required under this section.</p> <p>(j) Failure of a particular policy or procedure adopted under this section to meet its goals in a particular instance is not a ground for liability of the licensee or registrant if the policy or procedure was created, implemented, and monitored properly. Repeated</p>		<p>The Uniform Act provides that the licensee or registrant must engage a responsible individual to monitor, publicize, recommend changes to, and enforce, each policy and procedure. "Responsible individual" is a defined term.</p>

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<p>failures of a policy or procedure are evidence that the policy or procedure was not created or implemented properly.</p> <p>(k) Policies and procedures adopted under this section must be disclosed separately from other disclosures made available to a resident, in a clear and conspicuous manner and in the medium through which the resident contacted the licensee or registrant.</p>		
<p><b>SECTION 602. MANDATED COMPLIANCE POLICY OR PROCEDURE.</b></p> <p>(a) An applicant, before submitting its application, and a registrant, before registering, shall establish and maintain in a record a policy or procedure designed to ensure compliance with:</p> <p>(1) this [act]; and</p> <p>(2) law of this state other than this [act] if:</p> <p>(A) the other law is relevant to the virtual-currency business activity contemplated by the licensee or registrant or the scope of this [act]; or</p> <p>(B) this [act] could assist in the purpose of the other law because violation of the other law has a remedy under this [act].</p> <p>(b) A policy or procedure under subsection (a):</p> <p>(1) must be compatible, and not conflict, with requirements applicable to a licensee or registrant under law of this state other than this [act] and under federal law; and</p> <p>(2) may be a policy or procedure in existence for the licensee's or registrant's virtual-currency business activity with or on behalf of a resident.</p> <p>(c) After the policies and procedures required under this section</p>	None	<p>The Uniform Act requires that a licensee or registrant maintain in a record a policy or procedure to ensure compliance with the Uniform Act, other state law relevant to the virtual-currency business activity, and other state law if a violation of the other state law has a remedy under the Uniform Act.</p>

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<p>are created by the licensee or registrant and approved by the department, the licensee or registrant shall engage a responsible individual with adequate authority and experience to monitor each policy or procedure, publicize it as appropriate, recommend changes as desirable, and enforce it.</p> <p>(d) A licensee or registrant may:</p> <p>(1) request advice from the department as to compliance with this section; and</p> <p>(2) with the department's approval, outsource functions, other than compliance, required under this section.</p> <p>(e) Failure of a particular policy or procedure adopted under this section to meet its goals in a particular instance is not a ground for liability of the licensee or registrant if the policy or procedure was created, implemented, and monitored properly. Repeated failures of a policy or procedure are evidence that the policy or procedure was not created or implemented properly.</p>		<p>The Uniform Act provides that the licensee or registrant must engage a responsible individual to monitor, publicize, recommend changes to, and enforce, the compliance policy and procedure. "Responsible individual" is a defined term.</p>
<p style="text-align: center;"><b>[ARTICLE] 7</b></p> <p style="text-align: center;"><b>MISCELLANEOUS PROVISIONS</b></p> <p><b>SECTION 701. UNIFORMITY OF APPLICATION AND CONSTRUCTION.</b></p> <p>In applying and construing this uniform [act], consideration must be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.</p>	None	<p>The Uniform Act includes the standard provision on uniformity of application and construction.</p>
<p><b>SECTION 702. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.</b></p> <p>This [act] modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or</p>	None	<p>The Uniform Act includes the standard provision on the federal E-SIGN act.</p>



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authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b)).		
<p><b>SECTION 703. SAVING AND TRANSITIONAL PROVISIONS.</b></p> <p>(a) A license issued under [insert citation to state’s Money Services Act or Money Transmitter Act] which is in effect immediately before [the effective date of this [act]] remains in effect as a license for its duration unless revoked or suspended by the licensing authority that issued it. A person licensed under [insert citation to state’s Money Services Act or Money Transmitter Act] which does not intend to engage in virtual-currency business activity is not required to inform the department of its intention.</p> <p>(b) If the department denies, suspends, or revokes a license under this [act] or suspends, or revokes a registration to conduct virtual-currency business activity with or on behalf of a resident, the denial, suspension, or revocation may not be used as a ground for suspension or revocation of a license granted under [insert citation to state’s Money Services Act or Money Transmitter Act] unless that [act] independently provides a basis for action against the licensee or registrant.</p> <p>(c) This [act] applies to virtual-currency business activity with or on behalf of a resident on or after [the effective date of this [act]].</p> <p>(d) A person is deemed to be conducting unlicensed virtual-currency business activity with or on behalf of a resident in violation of this [act] if the person engages in virtual-currency business activity on or after [the effective date of this [act]] and the person does not hold a license issued or recognized under this [act], is not exempt from this [act], and has not applied for a license or filed a registration. This subsection includes a person that:</p> <p>(1) has obtained a license under [insert citation to state’s Money Services Act or Money Transmitter Act], whether or</p>	<p><b>§ 53-208.64. Transition.</b></p> <p>Any person who holds in good standing a money transmitters license issued by the Commissioner on or after November 1, 2014, may continue to engage in such business subject to the requirements of this Article.</p>	<p>Both the Uniform Act and the MTA have a savings provision allowing a person who holds in good standing a money transmitters license to continue to engage in money transmission.</p> <p>The Uniform Act provides that a disciplinary action under the Uniform Act is not a ground for disciplinary action under a separate money transmitters statute.</p> <p>The Uniform Act provides that any virtual-currency business activity after the effective date of the Uniform Act must comply with the Uniform Act.</p>

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<p>not that [act] covers virtual-currency business activity, or holds a charter as a trust company from this state; and</p> <p>(2) does not have permission to engage in virtual-currency business activity with or on behalf of a resident.</p>		
<p><b>[SECTION 704. SEVERABILITY CLAUSE.</b></p> <p>If any provision of this [act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of this [act] which can be given effect without the invalid provision or application, and to this end the provisions of this [act] are severable.]</p>	<p><b>§ 53-208.63. Severability.</b></p> <p>Should any provision, sentence, clause, section, or part of this Article for any reason be held unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Article.</p>	<p>Both the Uniform Act and the MTA contain a severability provision.</p>
<p><b>SECTION 705. REPEALS; CONFORMING AMENDMENTS.</b></p> <p>(a) . . . .</p> <p>(b) . . . .</p> <p>(c) . . . .</p>		
<p><b>SECTION 706. EFFECTIVE DATE.</b></p> <p>This [act] takes effect . . . .</p>	<p>Section 3 of S.L. 2016-81, as amended by Section 46 of S.L. 2017-102:</p> <p>“[The North Carolina Money Transmitters Act] becomes effective October 1, 2016.”</p>	